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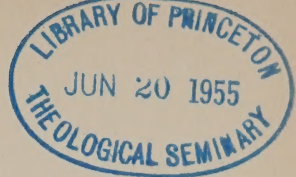
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Church & State

THE STRUGGLE FOR SEPARATION
IN NEW HAMPSHIRE

• 1630-1900 •



By Charles B. Kinney, Jr.

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Church & State

THE STRUGGLE FOR SEPARATION

IN NEW HAMPSHIRE

1630-1900

An Introduction

NEW HAMPSHIRE, like many other states, is once more engaged in a struggle to establish a sound and workable relationship between church and state. The debate is not at all new; in fact, it is surprising that so many of the debaters are so little aware of the fact that this is an issue that has troubled New Hampshire throughout its almost three and a half centuries of existence. Each generation has attempted to anchor in the bedrock of public law its belief as to what should be a proper relationship between church and state. Each has claimed the sanctity of the church and of the Christian religion for its stand. But each generation found that there were conditions in society which could not be met completely by an adherence either to the past or to the status quo. Gradually, and always with vigorous opposition and dissent, the people of New Hampshire have found it necessary to challenge aspects of their existing tradition. What this study purports to show is how this challenging has upset one tradition as to a proper relationship between church and state and proceeded to establish another.

Whether or not the inhabitants of New Hampshire in the seventeenth century were a more godly people than are those of today is highly debatable. There is little doubt, though, as to the primary place that they gave to organized religion in their daily lives and in their public legislation. Religion was of paramount importance. According to the traditions of that day, people were expected to adhere to the church and to attend public worship. This requirement, at least during the days of Puritan control, was written into public law. Careful observance of the Sabbath, required attendance at church, the financial support of the ministry by public taxation, the maintenance of a narrow

orthodoxy—all these were part of the tradition as it was practiced during the province's first century.

The Massachusetts Puritans are well known for their religious orthodoxy and their maintenance of an established church; and conditions were not dissimilar in the other colonies. However, because the political control maintained by England varied from colony to colony, the process of changing the tradition of established religion to something different was not the same in all of the original states. This makes the study of New Hampshire, one of the Thirteen Colonies, a useful contribution in clarifying the total picture of what we have come to understand as the American tradition in religion.

This tradition is much more than a concern with free exercise of religious worship as we usually interpret freedom of religion; it is a concern with questions over political support of a religious establishment and favoritism for one or more religious groups over others. Because of the creation in 1787 of a federal system rather than a unitary state, the states were able to pursue different courses in their development of religious liberty and in their respective attitudes toward religious establishment. New Hampshire, while it has followed the general road taken by the others, has its own side roads and byways.

Some of the New England colonies and their successor states have been surveyed in other studies, among which Greene's *Development of Religious Liberty in Connecticut* and Meyer's *Church and State in Massachusetts, 1740 to 1833* have perhaps the closest connection with New Hampshire religious history. Lauer's *Church and State in New England* and Thorning's *Religious Liberty in Transition* have attempted to treat larger spheres; the former dealt with New England, the latter with several New England states plus some of the middle Atlantic and southern states. While these two studies touched New Hampshire, they emphasized the struggle to obtain constitutional change. Little attention was given to the developments in the several towns and practically none to church, state, and public education. For these elements one has to search into the several histories of the New Hampshire denominations, into those of scores of New Hampshire towns, and into the regular reports

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of the State Board of Education, which were first required by law in 1847. All of these touch on religious questions.

For most people this background history is a tale of the persistent development of religious freedom. The question of what is a sound relationship between church and state and among church, state, and school has been relatively neglected in our literature and in our thinking, certainly in our public and private education. In spite of this neglect by historians and teachers, politicians have never been able to eliminate these problems from the legislative halls, either of the province or of the state.

The political and social climate during each century has given to that century its own unique approach to church-state relations. In the seventeenth century emphasis was focused upon the creation of an established order, one supported by all taxpayers within the province, whether or not individual citizens cared to support that orthodoxy. Support of the church by means of public funds was taken as a matter of course. To expect dissent or to tolerate it if it existed was not within the accepted tradition. Rather it was assumed by those in power that one of the functions of authority was to foster uniformity.

The eighteenth century brought with it the recognition that a narrow orthodoxy had its weaknesses. With the rapid influx of settlers and the event of a religious revival, sectarianism raised its dissenting head in opposition to the Congregational monopoly. Whereas dissent had been beaten down in the previous century, it became too strong in the eighteenth to be denied consideration. A combination of legislative action and, in a few cases, town assent began the slow process of changing the original tradition. In the eighteenth century, then, the chief trend was toward breaking down the established order, upon getting recognition for dissenters to worship in their own churches, upon gaining relief from the taxes levied for the primary establishment.

Before the century passed away a few leaders had become concerned with the necessity of creating a more democratic order. This led in the nineteenth century to agitation for a change in constitutional arrangements, a change to give political equality to all citizens of the state, regardless of their Christian faiths. Before this issue could be satisfactorily settled, attention began

CHURCH AND STATE IN NEW HAMPSHIRE

to focus on a new field, that of public education. Although education's part in the church-state controversy received a tremendous amount of thought in the nineteenth century, many critical problems in church-state-school relationships survive in the twentieth. This study ends without a discussion of the issues that are paramount today, questions of dismissed time and released time, questions of how far the state can go in furnishing auxiliary services to schools other than public ones, questions dealing with some still unsolved constitutional issues. Nor does the project consider the new religious groups that have added more diversity to the twentieth century picture, groups such as the Jews and the Jehovah's Witnesses.

This study has been made in the hope that it will furnish some historical perspective for the consideration of the current issues mentioned above. This hope is based upon the assumption that understanding of the historical development is essential for legislators, church leaders, and all the rest of us who are interested in making decisions which are best for the greater number of American citizens. The study attempts to describe the divergent historical traditions that are in existence in New Hampshire and how these traditions collide head-on in the field of public education. It is believed that recognition of these divergent traditions is vital to those who are faced with the heavy responsibility of making public policy.

The study has five chapters: (I) Development of the Puritan Theocracy—Establishment in the European Tradition, (II) The Eighteenth Century—Breaking Down the European Tradition, (III) The Revolutionary Era—Movement Toward Toleration and the Development of an American Tradition, (IV) Struggle for Constitutional Change—Rooting the New Tradition in the Law of the Land, and (V) Church, State, and Public Education—Conflict Between Two Traditions. The first three chapters are a chronological presentation of events from the beginnings of the colony during the 1620's until after the passage of the Toleration Act in 1819. These sections, as their titles suggest, describe the establishment of religion, first in the province, later in the state. This establishment, featuring town creation and town support of the ministry, came to an end during the

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years after 1819 as the contracts with town pastors gradually expired. The last two chapters overlap the first three in time as they deal with two persistent problems which still confound New Hampshire's church-state relations. Chapter IV is concerned with the attempts to revise the religious clauses of the original Constitution of the state, particularly Article 6 of the Bill of Rights and the religious test for the holding of political office. Chapter V, a study of church, state, and public education, seeks to show their close relationship throughout the whole of New Hampshire's history. A careful scrutiny of the legislation, for its religious overtones and undertones, from the passage of the first education law till the opening of the twentieth century would appear to be a requirement for those who desire to review current law and current practice. To let the reader get much of the flavor of the times, the writer has quoted extensively from source material. While this breaks into the narrative, it has the advantage of letting each generation tell much of its own story.¹

That this subject is both timely and ticklish is amply demonstrated by events in New Hampshire in recent years. In 1953, for example, the state legislature had before it a bill to provide

¹ Among the resources used in preparing this study several in particular should be cited: *The Provincial and State Papers*, published over a forty-year span, which give a variety of information including journals of legislative sessions, royal commissions, town charters, letters from important officials, petitions to the colonial government, laws, etc.; the ten-volume collection of the *Laws of New Hampshire, Province Period to 1835*; the *Journals of the Conventions to Revise the Constitution, 1791 to 1948*; *State Board of Education Reports, 1847 to 1904*, these being the official reports of the New Hampshire State Board of Education.

For general background two of the religious histories were especially useful—Batchelder, *A History of the Eastern Diocese* (Episcopalian), and Lawrence, *The New Hampshire Churches* (Congregational and Presbyterian). Among the histories Belknap, the *History of New Hampshire*, Stackpole's four-volume *History of New Hampshire*, and Fry, *New Hampshire as a Royal Province* were invaluable in fitting religious developments into their social and political settings.

In the investigation of church-state trends during the Revolutionary and post-Revolutionary period, the many town histories, published by almost every town of any consequence, help to demonstrate the wide variety in religious establishment and prepare one for legislative change in the larger political arena. It would be difficult to cite any one of these town histories as being most useful. Taken as a whole they clarify the pressure throughout the state for change in the church-state relationship.

Among the newspapers the Concord *New Hampshire Patriot* and later the Concord *Monitor* proved most useful in their treatment of legislative matters, particularly during the periods of constitutional change and the passage of the Toleration Act in 1819.

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for released time for religious education. Both the committee hearings and the general legislative sessions provoked heated, emotional, and lengthy discussion. Religious bodies, educators, and the public press were sharply divided in their views on the controversial measure. The committee hearings drew so much interest that the House Chamber had to be used to accommodate the interested participants. The Commissioner of Education, representing the State Board of Education, was among those presenting an official view to the legislators.² The largest newspaper of the state, the *Manchester Union-Leader*, utilized several front-page editorials and bold-faced type to try to influence public opinion.³ In all of this debate too little attention was paid to the historical reasons for the existing tradition. It became clear as the debate continued that more research was essential. The Commissioner of Education has since suggested that it would be worth while for educators themselves to review the implications of the proposed legislative action.⁴ The Congregational-Christian Conference at its annual meeting shortly after these hearings appointed a state committee to study the proposed legislation and to present recommendations at the next annual meeting.⁵ So it has gone with divers other groups. The state is in ferment, a ferment that is charged with emotionalism, bred out of ignorance, intolerance, prejudice, and fear.

In keeping with the democratic tradition, a people should make its decisions in light of what the past has shown to be sound public policy. The past is filled with evidence to demonstrate that New Hampshire has considered what were at the time highly controversial issues regarding the relations of church and state. Amid minority cries that the people were destroying religion, the state has taken several stands. The increase of Protestant sectarianism, the appearance of a vigorous Catholic minority, the

² Commissioner of Education, Dr. Hilton Buley, presented a report from the State Board of Education at the legislative hearing, March 17, 1953.

³ The most vociferous of these editorials appeared April 17, 1953, and was entitled "A Vote Against God."

⁴ An opinion of the Commissioner expressed to the writer shortly after the legislative hearing.

⁵ The resolution calling for the creation of a committee to study the question of religious education with respect to released time was quoted in the *Manchester Union-Leader*, May 14, 1953.

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agitation of a democratic state for free public education have from time to time required new hours of decision. Today New Hampshire appears to be facing another critical hour in its shaping of an acceptable relationship between church and state. May the people act in full understanding of the decisions of the past two centuries and of the reasons and conditions behind those actions. May the people also act in the spirit of a free people that not only considers the interests of the dominant groups in society, but also takes into consideration the religious views of the whole body politic.

If this study makes any contribution to these ends, it will have served its purpose.

I

Development of the Puritan Theocracy

ESTABLISHMENT IN THE EUROPEAN TRADITION

TO ENCOURAGE settlements in the New World, King James I created a council of forty persons to have the function of planting, ruling, and governing New England in America. Among the most active of this group were Sir Ferdinando Gorges, Governor of Plymouth, England, and Captain John Mason, a merchant and sea captain, also Governor of Portsmouth, England. In 1621 and 1622 these two, excited by reports of rivers, harbors, fisheries, and other resources, sought and obtained from the council two grants of land which included most of what is now New Hampshire.¹

Settlement of the Four Original Towns

In conjunction with several other merchants Gorges and Mason organized the Company of Laconia and in 1623 sent over a small group to establish a colony. The provincial records state that the migrants planted two small settlements, one at the river Pascataqua (now Portsmouth) and the other farther up the river at a site they called Northam (now Dover). The purpose of these colonists is evident from the early correspondence of Gibbens, factor of the Laconia Company, for it is filled with discussions of fur trading, need for supplies, desire for more

¹ *Provincial Papers*, I, 1-39. These pages reproduce several of the grants made to Gorges, Mason and others. Along with these are some letters, correspondence between the officials of the company and the first settlers.

fishermen, and contains practically nothing about religious affairs.

In this latter respect they were quite different from their neighbors to the south in Plymouth and those soon to settle in Boston. They did not feel any great antipathy to the English government; nor had they felt themselves driven from England because of their dissent from the established religion, the Church of England. Unlike the immigrants to Massachusetts, the New Hampshire settlers adhered to the Anglican Church. Prior to 1638 they built and furnished a church and parsonage at Strawberry Bank (now Portsmouth). According to Batchelder they had

. . . one great Bible, Twelve Service Books, one pewter Flagon, one communion cup and cover of silver, two fine table cloths and two napkins, which had been sent over by Mason. The people were not Puritanical in their religious sentiments, but retained their attachment to the Church of England.²

The inhabitants themselves added to these donations from Mason and the other proprietors by contributing

. . . divers and several sums of money toward the building . . . of a parsonage house, with a chapel thereto united, also fiftie acres of Glebe land which is annexed and given to the said parsonage³

The records go on to state that Thomas Walford and Henry Sherburne, church wardens of the parish, were placed in charge of the above-mentioned "Parsonage house, chappell, corn field, garden, glebe land with all right . . . to continue in perpetuitie forever to the use of the aforesaid parish."⁴ This title was given over to the local authorities under the seal of King Charles in the year 1640.

Sometime during the late 1630's the little Episcopal parish obtained its first pastor, a Rev. Richard Gibson, an ordained Anglican clergyman. From the scanty evidence available, it appears that he was the first settled minister in the colony.⁵

² Calvin R. Batchelder, *A History of the Eastern Diocese*, 134.

³ *Provincial Papers*, I, 111.

⁴ *Ibid.*, 111-13.

⁵ As used in this study, "settled minister" means one who is supported by public taxation.

About fifteen miles southwest of Portsmouth, Exeter was established under quite different circumstances, much more in keeping with what is generally considered the New England tradition. Here was a case of a small church group seeking to escape from an unacceptable religious control. They were led by Rev. John Wheelwright, who had just been convicted of contempt and sedition and of disturbing the civil peace by the General Court of Massachusetts and ordered disfranchised and banished. Wheelwright, thinking he had moved beyond the jurisdiction of the Puritans, quickly organized the new town and congregation of Exeter.

Whereas it hath pleased the lord to moue the heart of our Dread Sovereigne Charles, by the grace of God . . . to grant license & liberty to sundry of his subjects to plant themselves in the westerne partes of America: Wee, his loyall subjects, brethren of the church of Exeter, situated & lying upon the river of Piscataquacke, wh other inhabitants there, considering with ourselves the holy will of God and our owne necessity, that we should not live whout wholesome lawes & government amongst us, of wch we are altogether destitute; doe in the name of Christ & in the sight of God combine ourselves together, to erect & set up amongst us such government as shall be to our best discerning, agreeable to the will of God, professing ourselves subjects to our Sovereign Lord King Charles, according to the Liberties of our English Colony of the Massachusetts & binding ourselves solemnly by the grace & helpe of Christ in his name & fear to submit ourselves to such godly & Christian laws as are established in the realme of England to our best knowledge, & to all other such lawes wch shall upon good grounds, be made & inacted amongst us according to God, yt we may live quietly & peaceably together, in all godliness and honestly. Mon., 5th d., 4th, 1639.

John Whelewright, etc.⁶

Prior to 1640 one more settlement, that of Hampton, was added to the three existing towns in New Hampshire. In this case a number of persons, mostly from Norfolk, England, peti-

⁶ *Provincial Papers*, I, 132. According to Bell this was not the first time that Wheelwright had incurred the censure of an official church. Previously, in England, Archbishop Laud had denounced Wheelwright for his failure to practice the strictest observance of religious ceremonies according to the practices of the Church of England. Bell further asserts that Wheelwright along with John Cotton was obliged to flee from England. The independent spirit which led him to dissent in England apparently continued to guide his actions in Boston, for he soon fell out with the authorities of that town. See Charles H. Bell, *History of the Town of Exeter, New Hampshire*, 453-56.

tioned the General Court of Boston for permission to settle there. Although there was some doubt about the jurisdiction of the Massachusetts government, the petition was granted and the new settlers laid out a township of 147 shares, organized a church, chose Stephen Batchelor as their minister, and formed their town. Although Mason's estate protested this infringement upon his grant, his heirs did little about it. By 1638 Hampton was actually organized, had named its constable and other officers, and had been granted the privilege of sending a deputy to the Massachusetts General Court.⁷

By 1640 there were four settlements in the Mason grant. Dover's religious beginnings were much more confused than were those of the other three towns. Its first minister was Rev. William Leveredge, a Puritan minister, who remained there from 1633 to 1635. It is not clear whether or not he was supported by public taxation. Belknap states that "his allowance from the adventurers proving too small for his support in a new country . . . he was obliged to remove to the southward"⁸ For the next six years Dover was a scene of confusion as several pastors tried to preach the gospel, but there were religious squabbles and the townspeople failed to furnish a settlement sufficient to attract a permanent minister.

Among the four towns two, Hampton and Exeter, were organized as church congregations. The other two, Dover and Portsmouth, had much more confused beginnings. The crown had not delegated to them any charters or powers of government, and they found it necessary to take things into their own hands. In 1640 Dover formed what it called a "Combination" until the authorities in England should make other disposition of the colony.⁹ According to this agreement the inhabitants agreed to submit themselves to the laws of England and to whatever others they themselves should enact by majority vote. Portsmouth apparently took similar action at about the same time.¹⁰

⁷ *Provincial Papers*, I, 150-53.

⁸ Jeremy Belknap, *History of New Hampshire*, 18.

⁹ *Provincial Papers*, I, 118-28.

¹⁰ Belknap, 28-30. According to Belknap, Portsmouth destroyed most of its early records in 1652, and the exact date of "Combination" is obscure.

It is quite apparent that one can make few generalizations about New Hampshire's beginnings. Of the four settlements three were clearly separate units, each attempting to govern itself as best it could. Belknap calls them essentially free republics. The fourth, Hampton, was more closely allied to the Massachusetts theocracy and by 1640 was already sending its representative to the Massachusetts General Court. In spite of these separate beginnings each town tried to establish a church in the European tradition; that is, the people assumed that there should be an official church, that the minister should be a legal official of the town, and that he should be supported by means of public taxation. The towns, however, were neither equally successful in doing this nor uniform in the nature of the settlement. Exeter established the dissenter Puritan, John Wheelwright. Portsmouth established the Anglican pastor, Richard Gibson. Hampton, under the direction of Massachusetts, settled Stephen Batchelor and his associate, Timothy Dalton (or Doulton). Dover tried to settle a pastor but, either because of poverty or because of differences of opinion among the townsmen, failed to obtain a permanent settled minister.

Because of this apparent diversity, Sanborn asserts, religious intolerance was mostly foreign to New Hampshire, because, as he put it, it included "Churchmen, Baptists, and men of no religion, as well as heretics and irreligious persons whom Massachusetts had excluded."¹¹ On the face of things there is evidence for his conclusion; closer analysis suggests something else. Each town tried to create a religious establishment. True, Dover had had its religious difficulties. While Wheelwright had gained freedom from Boston's hierarchy, he did not condone dissent from his views in Exeter. Hampton was tied to Boston's Puritanism. It is difficult to conceive of tolerance in that town. We have, rather, evidence of the European tradition of having an official church in a community, the church legally supported by public taxation. What is different from the European arrange-

¹¹ F. B. Sanborn, *New Hampshire, An Epitome of Popular Government*, 122. Bell, in his *History of Exeter*, disagrees sharply with Sanborn's viewpoint. "Religion," he stated, "at that day entered into everything; the magistrates were elected, and the government administered, according to the particular religious views of the majority. Both clergy and laity were made worse by the union, just as they themselves believed to be the case in the country whence they came." 455.

ment was the fact that within the same province there were different establishments. This was an accident brought about by the loose control maintained by England. Because the four towns were not carefully united by the central government, each was able to proceed as it pleased. What existed in 1640 were four single units, each relatively free to arrange whatever form of Protestant establishment it saw fit.

Union with Massachusetts

The problems of frontier existence soon forced the four New Hampshire towns to seek the greater safety of union with Massachusetts. This move not only brought greater union to the settlements but also forced radical changes in their religious climate. Wheelwright quickly withdrew from Exeter, once more fleeing from the direct control of the Bay province's officials, this time settling in Maine. Evidently he did not misjudge the temper of the Massachusetts General Court. That legislative body soon called the Anglican pastor at Strawberry Bank to task for the nature of his preaching—as the General Court put it, “for scandalizing the government and denying their title.”¹² Upon his forced submission to the Boston authorities Gibson was discharged without fine or other punishment upon his promise to leave the country. After his departure Massachusetts sent “the people of Portsmouth . . . James Parker for their minister, who was a scholar, and had been a deputy in the Massachusetts court.”¹³ It appears almost unnecessary to add that he was a faithful Puritan cleric. Perhaps because of this incident, it was not until 1658 that Portsmouth was gathered into the Puritan church with a full church covenant. The hasty action of the hierarchy had left seeds of serious discontent on the Strawberry Banks.

The union between church and state in Massachusetts, however, could not be exactly reproduced in the New Hampshire settlements. Probably the only freemen or voters in Hampton and Exeter were church members. In Portsmouth and Dover

¹² *Belknap*, 28.

¹³ *Ibid.*

there did not appear to be similar restrictions. To make the union more palatable in the face of actions such as that taken against Portsmouth's Anglican pastor, Gibson, the General Court at Boston in 1642 made what must have been an extraordinary concession:

It is ordered that all the present inhabitants of Pascataquack, who were formerly free . . . shall have liberty of freemen in their severall townes to manage all their towne affairs & shall each town send a deputy to the General Court though they be not at present Church members.¹⁴

Concessions generally did not go very far. One can be sure that the General Court kept a watchful eye on the New Hampshire towns. In 1644 some of the inhabitants of Exeter attempted to organize a new church and to call the aged Rev. Stephen Batchelor of Hampton to fill the pulpit. Upon being apprised of this possibility the General Court passed the following resolution:

Whereas it appears to this court that some of the inhabitants of Exeter do intend shortly to gather a church and Call Mr. Bachiler to be their minister . . . it is therefore ordered that direction should forthwith be sent to the said inhabitants to defer the gathering of any church, or other proceeding, until this court or the court at Ipswich, upon further satisfaction of their reconciliation and fitness, shall give allowance thereunto.¹⁵

On the same day that the General Court took the above action it passed a resolution to end the banishment of Wheelwright. It should further be added that an acknowledgment and confession of his evil actions were a condition of the lifting of this banishment from the jurisdiction of the province.¹⁶

It was not until April of 1650 that the people of Exeter were able to obtain a settled pastor who would be acceptable to a majority of the citizens, acceptable to the General Court, and willing to live in that frontier town. The rate established to raise

¹⁴ *Provincial Papers*, I, 161.

¹⁵ *Ibid.*, 161ff. For some who may be unfamiliar with the term General Court, this was the proper title for the legislatures of Massachusetts and New Hampshire. Both states have retained this provincial terminology for their legislative bodies.

¹⁶ While Wheelwright did not acknowledge and confess his evil actions, he made his peace with the General Court. According to Bell, he "expressed his sorrow

funds to pay the new pastor, Rev. Samuel Dudley, was typical. Each inhabitant had to pay two shillings per thousand pipe staves he made, one shilling sixpence for every thousand of hogshead staves, and four shillings for every thousand bolts sold before they could be made into staves, all of this to be applied toward the maintenance of the established ministry.¹⁷

The Quakers

As one might expect, the General Court went much further in its reactions against those who dared dissent from the standing order of Massachusetts. It gave short shrift to those who actively professed other than Puritanism. It ordered Edward Starbuck of Dover before it to explain his "great misdomeanor" of worshipping in other than the accepted manner.

This Court being informed of great misdomeanor Committed by Edward Starbuck of Dover with profession of Anabaptism, for which he is to be proceeded against at the next Court of Assistants if evidence can be prepared by that time . . .¹⁸

Greater fury was vented upon the poor followers of George Fox by the stern Puritan fathers. The General Court considered with alarm this challenge of the Quakers to the existence of the unified church and state:

14 October, 1656. Whereas there is a cursed sect of hereticks lately risen up in the world, which are commonly called Quakers, who take upon them to be immediately sent of God, and infallibly assisted by the spirit to speake & write blasphemouth opinions, despising government and the order of God in church & comonwealth, speaking evill of dignities, reproaching and reviling magistrates and ministers, seeking to turne the people from the faith, & gain proselites to their pernicious waies, this Court, taking into serious consideration the premises, and

for the part he had taken in the controversy, and his grief at the censorious speeches he had made, and his unchristian temper in the sharp contentions of that day." He did not say that he was wrong. While this may not have met the letter of the requirements, the General Court chose to accept this as sufficient submission. Wheelwright returned to New Hampshire after approximately three years of exile at Wells, Maine. For eight or nine years he preached at Hampton. About 1655 he returned to England, where he stood high in the favor of Oliver Cromwell, Lord Protector. Upon Cromwell's death he returned to Massachusetts where he took up his work as a "sound, orthodox, and accepted Puritan pastor." Bell, 453-56.

¹⁷ Bell, 158.

¹⁸ *Provincial Papers*, I, 191.

to prevent the like mischiefe as by their means it wrought in our native land, doth hereby order and by the authorities of this Court, be it ordered and enacted, that what master or comander of any ship, barke . . . that shall henceforth bring into any harbour . . . of this jurisdiction any knowne Quaker or Quakers . . . shall pay . . . the fine of one hundred pounds . . . And it is hereby further enacted and ordered, that what Quakers soever shall arrive in this cuntry from forraigne parts . . . shall be forthwith comitted to the house of correction, and at their entrance to be severely whipt, and by the master thereof be kept constantly to work . . .¹⁹

To sum up the law, the whole order was an effort to eliminate Quakers, Quaker opinion, Quaker support, and to fine and otherwise punish all Quakers and other persons who would in any conceivable way give aid and comfort to these people and their "blasphemous" ideas.

Evidently this original order was insufficient. Six months later, in May of 1657, the General Court found it necessary to broaden and to strengthen its previous order. It made punishments more cruel, its thesis being that the previous rule must have been too mild to get the desired results. The *Provincial Papers* bare the barbaric code:

. . . and it is further ordered, that if any Quaker or Quakers shall presume, after they have once suffered what the lawe requireth, to come into this jurisdiction, every such male Quaker shall, for the first offence have one of his eares cutt off, and be kept at worke in the howse of correction till he cann be sent away at his owne charge, and for the second offenc shall have his other eare cutt off, &c . . . and every woman Quaker that hath suffered the lawe heere that shall presume to come into this jurisdiction, shall be severely whipt . . . and for every Quaker, he or she, that shall a third time herein again offend, they shall have their tongues bored through with a hot iron . . . And it is further ordered, that all and every Quaker arising from amongst ourselves, shall be dealt with & suffer the like punishment as the lawe provides against forreigne Quakers.²⁰

For some Quakers, at least, the bite of the Boston General Court was as bad as its bark. In 1659 William Robinson, Marmaduke Stephenson, and Mary Dyer, having previously been banished by the court, were ordered to be hanged.

¹⁹ *Ibid.*, 226-27.

²⁰ *Ibid.*, 230-31.

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This second basic law apparently did not eliminate the cancerous growth, because in 1661 a third edict was placed upon the public record:

This Court, being desirous to try all means, with as much lenity as may consist with our safety, to prevent the intrusions of the Quakers, who, besides their absured & blasphemous doctrine, doe like rouges & vagabonds come in upon us, & have not bin restrained by the lawes already provided, have ordered that every such vagabond Quaker found within any part of this jurisdiction shall be apprehended by any person or persons, or by the constable of the towne wherein he or she is taken, & by the constable, or in his absence by any other person or persons, conveyed before the next magistrate of that shire wherein they are taken . . . and adjudged to be a wandering Quaker, shall . . . be stripped naked from the middle upward & tied to a carts taylor, and whipped thro the towne, and from thence immediately conveyed to the constable of the next towne towards the borders of our jurisdiction, . . . & so on from constable to constable till they be conveyed thro any of the outwardmost townes of our jurisdiction. 22 May 1661 from Massachusetts Records.²¹

Among the New Hampshire towns Dover appears specifically to have been affected by this malevolent spirit of the times. It inquired of the provincial officials what it should do concerning the Quakers in its midst. The General Court in reply granted the town power to act through its magistrate, Captain Richard Waldron.

. . . it is ordered that Capt. Richard Waldern shall & hereby is empowered to act in the execution of the lawes of this jurisdiction against all criminall offenders within the said towne of Dover, as any one magistrate may doe, untill this Court shall take further order. from Massachusetts Records.²²

Thereupon, acting in his capacity of magistrate, Captain Waldron helped to carry out this cruel decree. Just before Christmas, on December 22, 1662, Waldron issued the following order to the constables of the eleven towns in his charge, including Dover and Hampton in New Hampshire:

You and every of you are required in the King's Majesty's name, to take these vagabond Quakers, Anna Colman, Mary Tompkins, and

²¹ *Ibid.*, 234–35.

²² *Ibid.*, 243–44.

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Alice Ambrose, and make them fast to a cart's tail, and drawing the cart through your several towns, to whip them upon their naked backs not exceeding ten stripes apiece on each of them in each town, and so convey them from Constable to Constable till they are out of this jurisdiction, as you will answer it at your peril, and this shall be your warrant.

At Dover, dated Dec. 22, 1662

Per me,
Richard Waldron²³

Nor was this the only incident that occurred in Dover. Religious intolerance toward the Friends, or Quakers, as the Puritans persisted in calling them, continued, abating very slowly. For many years they were fined five shillings for absence from orthodox worship and ten shillings for entertaining other Quakers. One, James Nute, must have been an inveterate sinner, for he was fined eight pounds for having entertained Quakers.²⁴ In spite of this bitter persecution, the Quakers, like the early Christians in the Roman catacombs, multiplied until through their quiet perseverance they were finally accepted in the town of Dover. According to Lawrence they rapidly increased until at one time they numbered a third of the inhabitants of that hamlet. In spite of constant oppression, they persisted in their faith, and built their first New Hampshire meeting house at Dover Neck in September, 1700.²⁵

This vigorous opposition to those who dissented from the established church illustrates the climate of opinion as to church-state relations in this first period of provincial New Hampshire. What was actually occurring in Portsmouth, Exeter, Dover, and Hampton was the creation of an established orthodoxy. Religion was to be encouraged and supported; but only one religion, that of the Puritans, was to receive that encouragement and support.

Rooting Orthodoxy in Public Law

In 1655 the Dover Town Record set forth what was to be the pattern of support in New Hampshire for almost a century and three quarters.

²³ *Ibid.*

²⁴ Charles N. Holmes, "Dover and the Quakers," *The Granite Monthly*, March, 1914, 73-75.

²⁵ Robert F. Lawrence, *The New Hampshire Churches*, 319.

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It is agreed upon concerning setting comfortable maintenance of the ministry of Dover and Oyster River all the rent of the sawmills shall be set aparte into a Towne stocke, with two pence upon the pound to be rated upon the estates of all the inhabitants, and all such estates so appointed are to be put into the hands of any that shall be chosen treasurer by the said Towne to receive the said This order to take place the 25th of June next and to continue one whole year.²⁶

In 1657 Portsmouth petitioned the General Court for the privilege of settling a minister. Upon being empowered to do so the town voted to call a Reverend Mr. Woster (first name not clear) to settle with them in the Christian ministry, provided that they could agree with him after he had preached a trial sermon. It is not clear whether or not he preached there at all. At any rate, in 1658 Rev. Joshua Moody began his long pastorate in the town. While he was supported at first partly by public subscription, he very soon began to receive his salary through public taxation.²⁷

At this time the status of the legal voter became a bit clouded. Whereas in 1642 all freemen were adjudged to be voters whether or not they were church members, the stricter climate of 1658 brought forth the enactment "That no Quaker, Rantor, or any corrupt person shall be admitted to be a Freeman." In the revision of the laws, published in 1671, it was required in order to be admitted as a freeman that the person should be twenty-one years of age, be orthodox in the fundamentals of religion, have the testimony of his neighbors that he was of sober and peaceable conversation, and have at least twenty pounds rateable estate.²⁸ On two counts this appears to force a belief in and a support of the Puritan church. How else could one assert that he was orthodox in the fundamentals of religion? How else could one get the testimony of his neighbors as to his sobriety? Legally the freer atmosphere of New Hampshire was gradually being permeated by the more restricted one of Puritan orthodoxy.²⁹

²⁶ *Provincial Papers*, I, 215-16.

²⁷ *Ibid.*, 228.

²⁸ *Provincial Papers*, XXV, 765.

²⁹ According to the Massachusetts law, suffrage was restricted to individuals who were both church members and property owners. The law cited above mentions both orthodoxy and property ownership. It does not mention anything about the previous exception made for the New Hampshire towns. Some New Hampshire historians,

Stackpole asserts that there were many, especially among those who adhered to the Church of England, who did not relish the jurisdiction of the Massachusetts Puritans. He states that the Puritan ministers who were trained at Harvard did not administer the sacraments without question to all applicants and in the manner desired. Commissioners who were sent from England to inquire into reasons for discontent and dissension in the province were informed, particularly by the citizens of Portsmouth, that certain "five or six of the richest men of this parish have ruled, swaied and ordered all officers, both civil and military, at their pleasure."³⁰ Included in this select number was Rev. Joshua Moody, the settled Puritan pastor. The petitioners further stated that they had been kept in hard servitude, had been denied the Book of Common Prayer and the sacraments of the Church of England, having even been denied decent burial for their dead. In other words, twenty years after the Anglican clergyman, Gibson, had been dismissed, the struggle between Puritan and Anglican was still continuing in the little town. Evidently religion, economics, and politics were all hopelessly entangled.

The practices in Massachusetts and New Hampshire did not necessarily meet the approval of the government of Charles II. The report of the King's Commissioners concerning Massachusetts included the following sharp criticisms of Congregational practices:

To elude His Ma[jes]ties desire of their admitting men civill and of competent estates to be free-men, they have made an act whereby he that is 24 yeares old, a house keeper, and brings one certificate of his civill life, another of his being orthodox in matter of faith . . . may then have liberty to make his desire known to the Court and it shall be put to the vote.

They will not admit any who is not a member of their church, to the communion nor their children to baptisme, yet they will marry their children to those whom they will not admitt to baptisme, if they be rich. They did imprison and barbarously use Mr. Jourdain for baptizing children; as himself complain'd in his petition to the Comissrs. Those

Belknap and Stackpole among them, assumed that the earlier exceptions still held. The law itself is not clear. Regardless of what the law stated, between 1641 and 1679 Puritanism dominated New Hampshire religious practice and politics.

³⁰ Everett S. Stackpole, *History of New Hampshire*, I, 59.

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whom they will not admit to the communion they compell to come to their sermons by forcing from them five shillings for every neglect; yet these men thought their own paying of one shilling, for not coming to prayer in England, was an insupportable tyranny.

They have put many Quakers to death of other Provinces (for which they are petitioned against). First they banish't them as Quakers upon pain of death, and then executed them for returning. They have beaten some to jelly, and been . . . exceeding cruell to others; and they say the King allows it in his letters to them. Indeed they have misconstrued all the King's letters to their owne sence. They yet pray constantly for their persecuted brethren in England.³¹

The report further stated that Massachusetts had given aid and comfort to Cromwell and his followers during the previous decade and had raised several of Cromwell's friends to high places in the colony after the king had gained his throne. The report put it thus: ". . . those that have retreated thither since His Ma[jes]ties happy returne, are much respected and many advanced to be Magistrates." Some at least viewed only with cynicism and bitterness the period of the Puritan Congregational establishment.

Thus the first forty years of New Hampshire's existence were largely years of fastening upon the four colonial towns the Puritan way. The Anglican Church in Portsmouth, the Wheelwright heresy in Exeter, the Quaker movement in Dover—all of these were found dangerous by the Boston hierarchy. It, in each case, took immediate measures to destroy the religious arrangements which appeared to threaten the Puritan establishment. The only other town, Hampton, chartered by Boston, already a part of the Puritan core, did not develop any appreciable dissent. By 1671, then, the pattern of establishment was clear. Hampton, Exeter, and Dover enjoyed the benefits of the settled ministry. Portsmouth, moving toward the settled pastorate, was still partly supporting Moody by public subscription. In general, taxes for the ministry were levied upon all of the people. The policy in New Hampshire at that time and retained in that land until long after the American Revolution can best be illustrated by the following item from a town record, that of Dover in 1671:

³¹ *Provincial Papers*, I, 258-63.

For the better incoredgment of Mr. John Rayner in the ministry, the Towne doth order the forty pounds of mill rents with the Penny Rate to be paid to him yearly so long as he contineweth minister of the Towne of Dover: this penny Rate to be levied on the Inhabitant of Dover Neck, Cochecho, Bloody Poynt and Oyster River according to thear Artekels.³²

While the provincial government specified the general nature of what was acceptable or nonacceptable in religion, it left to the local units, the towns, provision for the financial support to maintain the minister. Failure to furnish such support usually meant that there was preaching from time to time, but not regularly. It did not mean, in this early period at least, that the town was to be a fruitful vineyard for the growth of another faith or creed.

Resumption of Direct English Control, 1679

The dissatisfaction of the government of Charles II soon forced itself upon the colony. Resentment of the manner in which the Puritans had usurped authority and power, including the assumption of control over New Hampshire without royal permission, together with the demands of the Mason heirs for a share in governance of New Hampshire, finally led to action. In 1679 King Charles ordered that the provinces be separated and that New Hampshire should become a royal province:

. . . now Know ye, that We, by and with ye advice of our Privy Council, have thought fit to erect, and by these presents for us, or heirs and successors, do erect, constitute & appoint a President and Council to take care of ye said Tract of land called The Province of New Hampshire, and of the Planters and Inhabitants thereof, and to order, rule and govern ye same according to such methods and regulations as are herein after provised and declared.³³

He appointed as the first President John Cutt, a principal merchant of Portsmouth, and commissioned him to organize the government.

This change in government was not greeted with any great

³² *Ibid.*, 312, footnote.

³³ *Ibid.*, 373-74.

applause by the freemen of the province. Most of them, after all, had long adhered to Puritanism and felt close ties to the province of Massachusetts. It is difficult to imagine that they took very seriously the following clause from the commission of the new president:

. . . And above all things, We do by these presents will, require and comand our said Councell to take all possible care for ye discountenancing of vice and encouraging of virtue and good living; and that by such examples ye infidel may be invited and desire to partake of ye Christian Religion, and for ye greater ease and satisfaction of ye sd loving subjects in matters of religion, We do hereby require and comand yt liberty of conscience shall be allowed unto all protestants; yt such especially as shall be conformable to ye rites of ye Church of Engd shall be particularly countenanced and encouraged³⁴

This commission appeared to place the Church of England in a paramount position as the favored church. At the same time it should not be forgotten that the only church in Portsmouth was the Congregational church presided over by the indomitable Moody.

The Cutt laws, which were passed in 1680 by the provincial General Assembly in Portsmouth and subsequently approved by President and Council, retained the power of the state behind the worship of the Puritan's God. Among the capital laws either passed or reasserted at this time were several which might have been used to insure a particular sectarian Christianity.³⁵ The first stated that anyone "having had the knowledge of the true God, [who should] openly and manifestly have or worship any other God" should be put to death. The second made blaspheming "God, Father, Son or Holy Ghost" also punishable by death. The ninth criminal law ordered severe punishment to anyone "who would prophane the Lord's Day by servell worke or travell, or by . . . recreation or by being at ordinarys in time of public worship." A fine, the stocks, or public whipping was the punishment for any who should be convicted of expressing contempt of God's word or of any minister in his pastoral dispensations. The laws further stated that all should attend public worship on the

³⁴ *Ibid.*, 378.

³⁵ *Ibid.*, 382-408. (The quotations are on pages 383 and 388.)

Lord's Day. Since the Puritan church was the only one available, it is clear that the state had aligned itself with the Puritanical outlook as to what should be orthodox in life, in law, and in religion.

In one respect the Cutt laws eased the Massachusetts law. No longer did the law require a statement as to orthodoxy in fundamentals of religion. Nor did it include a request that the freeman obtain testimony from his neighbor as to his character and orthodoxy. The provisions were simple and relatively easy to interpret—freemen had to be Englishmen, Protestants, settled inhabitants and freeholders in the town, twenty-four years of age, and have rateable estates worth twenty pounds. In addition each freeman had to swear allegiance to the king.³⁶ Judges should have found the above regulations easier to interpret than those of 1671.

The new Cutt laws continued the practice which had arisen earlier, that of taxation for the support of the ministry. In fact, as might be expected, affairs of church and state were clearly joined in the tenth general law of the new administration:

That thear may be a just and equal way of raising means for defraying ye publique charge, boath in church and civill affairs, whereof every pson doth or may receive ye benefit, their persons and estates shall be assessed or rated as follows³⁷

The law went on to give the selectmen of the towns authority to assess property, establish tax rates, and order the constables to collect taxes from all inhabitants for public purposes.

The first meeting of the General Assembly took place in March, 1680, and fittingly was opened with a prayer and sermon by Moody. According to Belknap, during this short administration things went on very much as they had before, the Puritans keeping a jealous watch over their rights and privileges. Before matters had a real chance to settle down, Cutt died and the province, in 1681, was faced with the problem of change in leadership. At the behest of Mason, who had gained little or nothing by this change in government, King Charles appointed as Lieu-

³⁶ *Ibid.*, 396.

³⁷ *Ibid.*, 397.

tenant Governor and Commander-in-Chief of New Hampshire Edward Cranfield.³⁸

The short administration of Cranfield (1682–1685) was particularly tumultuous insofar as church–state relations were concerned. In retrospect it looks as though he never had a chance. He came into power primarily because the heirs of Captain John Mason, the original proprietor, hoped to benefit from their claims on New Hampshire. Robert Tufton Mason believed that the Massachusetts government had flagrantly flouted his rightful claim to the land. Feeling that the Cutt administration had not changed the previous policy, he sought a governor who would pay greater attention to the Mason interests. He had tried the direct approach of coming to the province to plead his cause. Instead he became even more incensed because the colonial Assembly confirmed all town grants within the province. Moreover, the Council at Portsmouth had been quite vehement in rejecting Mason's claims, saying that he had contributed little to the development of the province.³⁹

In order to develop a following at court and to strengthen his own hand, Robert Tufton Mason surrendered to the crown one fifth of the quitrents and other revenues to which he was normally entitled as proprietor. He had strong allies in England because several members of the Lords of Trade were also highly displeased with the way the provincial government had been administered. They too had gained little and, as a result, recommended that the laws which the Cutt government had passed should be disallowed. The upshot of these pressures upon the king led to the appointment of Edward Cranfield as Lieutenant Governor of New Hampshire. They led too to his being detested even before he set foot in the province.⁴⁰

Naturally, under these initially unhappy circumstances, there

³⁸ Belknap, 92–96. The English authorities were not consistent in their use of titles granted to the governors of New Hampshire. John Cutt, the first governor, received the title of President; Cranfield, his successor, was named Lt. Governor; Joseph Dudley, his successor, again President. From 1686 till the Revolution the heads were called either Governor or Lieutenant-Governor, the last three being commissioned as Governors.

³⁹ *Laws of New Hampshire*, I, 38–43; William Henry Fry, *New Hampshire as a Royal Province*, 210 ff.

⁴⁰ Fry, 210–16.

was bound to be opposition to one who had been named to reorganize the colonial government. The leaders of the opposition to Mason and his land claims and to Cranfield, as the representative of royal authority, were Richard Waldron, a member of the council and the former deputy of President Cutt; Richard Martin, also a member of the council and a vigorous opponent of Mason's claim; and Rev. Joshua Moody, the settled orthodox minister of Portsmouth. All of these were openly and outspokenly in opposition. Moody, following the Puritan pattern of ignoring rule from England, particularly Anglican rule, loudly asserted that Cranfield had usurped power. In one instance he challenged a decision of Cranfield and requested of the governor copies of the evidence so that the offender might be called to account in the way of church discipline. The governor bluntly and angrily refused. The minister retaliated by inciting his congregation with a sermon against false swearing, thus arousing the governor to seek ways of ridding the province of what he deemed a festering sore.⁴¹

Cranfield's difficulties with these colonial leaders gradually led to a change of tone, where religious affairs were concerned, in the more or less regular reports which the governor made to the Lords of the Committee for Trade and Foreign Plantations during his short stay as chief magistrate of the colony:

May 7, 1681. As for Ecclesiastics, those affairs remain as formerly. Each Town of ye Province is supply'd with an Orthodox Minister, to ye satisfaccon of his Mats subiects.

Dec 1st 1682. Touching Ecclesiasticall matters, the attempting to settle ye way of ye Church of England I perceive will be very grievous to ye people. However Mr. Mason asserted ye their Inclinacons were very much yt way. I have observed them to be very diligt and devout in attending of yt mode of worship wch they have been brought up in, & hath been so long settled among them & seem to be very tenacious of it, & are very thankful for his Majties Gracious indulgence in those matters.⁴²

⁴¹ *Ibid.* and Belknap, 102-06.

⁴² John S. Jenness (ed.), *Transcripts of Original Documents in the English Archives Relating to the Early History of the State of New Hampshire*, 88-126.

Struggle Between Puritan and Anglican

Evidently the short space of a year and a half had changed his mind somewhat as to the satisfactory arrangement he had found. Matters, however, were to become even worse, as his next report reveals:

December 30th 1682. Let it not seem strange to your Lordships that in so short a time the matters in this paper appear so different from my former discourse to your Lordships. All the council and many of the chief inhabitants are part of the grand combination of church members and congregated assemblies throughout New England and by that they are so much obliged that the prejudice of any one, if considerable, influences the whole party. As long as the preachers exert themselves against the royal authority as they do now, he would not know where to turn for honest men to administer justice. In fact, he would not be able to carry on the government for any length of time unless power should be given him to remove such of them as disturb the peace of the government.⁴³

Cranfield wrote with a greater gift for prophecy than he imagined. The above indicates that he was not at all unmindful of the difficulties of his position and the overwhelming strength of his opposition.

Less than a fortnight later he addressed another appeal to his lords in England, to the effect that it was absolutely necessary for the government to take immediate action more forceful than any taken previously:

Jan. 10, 1683. . . . the government . . . should have power to appoint and remove ministers for they have such influence and are so turbulent that, unless that power is conferred upon governors, even he in the small province of New Hampshire will not be able to govern the people.⁴⁴

The situation soon became more tense, both for the royal governor and for his colonial opposition. Cranfield, in continuing his reports to the homeland, tried to clarify the reasons for some of his troubles. In doing so he echoed some of the thinking which had appeared in the reports of the king's commissioners in 1664:

⁴³ *Ibid.*, 123, 150-51; *Provincial Papers*, XVII, 575-76.

⁴⁴ *Provincial Papers*, XVII, 580.

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June 19th, 1683. That there can be no greater evill attend his Majtie affairs here, then those pernicious and Rebellious principles which flow fr their college at Cambridge . . . from whence all the Townes both in this and the other Colonys are supplyd with ffactions and seditious Preachers who stirr up the people to a dislike of his Majtie and his Govmt and the Religion of the Church of England . . . so that I am humbly of the opinion this country can never bee well settled or the people become good Subjects, till their Preachers bee reformed and that Colledge suppressed and the several Churches supplyd with Learned and Orthodox Ministers from England as all other his Majties Dominions in America are.⁴⁵

It is not clear whether or not Cranfield got any instruction from England in response to his request for greater power or to his request for appointments from home. Within one year, in December, 1683, Cranfield must have believed that he had found the means of humbling his arch-tormenter, Moody, and at the same time of reintroducing Anglican worship into New Hampshire:

All . . . the ministers within this province . . . from and after the first day of January next ensuing, admit all persons that are of suitable years, and not vicious and scandalous in their lives, unto the blessed sacrament of the Lord's Supper, and their children unto baptism. And if any persons shall desire to receive the sacrament of the Lord's Supper, or their children to be baptized according to the liturgy of the church of England, that it be done accordingly, in pursuance of the laws of the realm of England . . . And if any minister shall refuse so to do, being thereunto duly required, he shall incur the penalty of the statutes in that case made and provided, and the inhabitants are freed from paying any duties to the said minister.⁴⁶

The governor informed Moody of his intent to partake of the Lord's Supper and requested the pastor to administer the sacrament in accordance with the liturgy of the Church of England. Naturally the cleric refused. Cranfield thereupon issued the following warrant against the recalcitrant clergyman:

In his Majesty's name you are hereby required forthwith to apprehend the body and person of Joshua Moodey, of Portsmouth . . . and keep him in safe custody in the said prison, he having been convicted of administering the sacraments contrary to the laws and statutes of Eng-

⁴⁵ *Provincial Papers*, XVII, 590.

⁴⁶ *Laws of New Hampshire*, I, 85

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land, and refusing to administer the sacraments according to the rites and ceremonies of the Church of England, and the form enjoined in the said statutes, there to remain for the space of six months next ensuing, without bail or main prize. Fail not. 6 Feb 1684.⁴⁷

Moody pleaded that, not having been ordained in the Church of England, he was not obliged to do what the statute required. Further, the law in question had been made in England, not in the colonies. Indeed, they had removed to the provinces to enjoy liberty which they could not have by virtue of the laws at home. Perhaps more important, the commission establishing the Cranfield government had granted freedom of conscience to Protestants.

The six justices were clearly divided in their opinions, even though all of them were subject to the governor's demands. The language of the separate opinions demonstrates some of the conflict in their minds between loyalty to law and loyalty to the royal governor:

Just. Edgerly—that since his Majesty has been pleased to grant liberty of conscience to all Protestants here, the said Moodey is not liable to the penalty of the statutes for refusing to administer the sacraments according to the form thereof.

Justice Henry Green was of the opinion that the said Moodey is guilty of the breach of the laws, if the clause in the King's commission giving liberty of conscience doth not excuse him.

Nath. Frier, Justice, did affirm his opinion to be, that whereas his gracious Majesty hath been pleased to grant liberty of conscience to all Protestants in his royal commission, Mr. Moodey being a Protestant is not liable to the penalty of the acts of Parliament of the first Queen Elizabeth, and the 13th and 14th of K. Charles the Second.

Henry Roby, Justice, did declare his opinion, that he was clear that the statutes are clear against the said Moodey, if the commission that gives liberty of conscience doth not take away the force thereof.

Peter Coffin, Justice, did hold that the said Moodey is guilty of the breach of the said statutes.

Walter Barefoot, Esquire, was of opinion that the said Joshua Moodey had broken the said laws, and is liable of the penalty thereof.⁴⁸

By this vote of four to two, a vote which, if one examines carefully the statements of the several judges, could just as easily

⁴⁷ *Collections of the New Hampshire Historical Society*, VIII, 163–204.

⁴⁸ *Provincial Papers*, I, 487–88, footnote.

have gone exactly the other way, Moody was immediately ordered into custody where he remained under confinement for thirteen weeks. Having accomplished his ends with the imprisonment of one minister, Cranfield threatened similar action upon Seaborn Cotton, the Hampton cleric, who discreetly withdrew to Boston.

During the long weeks while the minister lay in prison no public worship was allowed in Portsmouth. Motions were made to allow Moody to preach on Sunday or to permit neighboring ministers to preach in his stead, but the governor would have none of this. Edgerly and Frier, for their part in the trial and its decision, were summarily removed as justices. As for Moody, through the interposition of his friends, he was released upon the condition that he would no longer preach in the province.⁴⁹

Obviously the state of affairs, of which this feud with Moody is but a small part, could not long continue. While arbitrary action was the primary complaint against the governor, the threat to the church interests of most of the people was reflected in the twelve articles of complaint which were made against Lieutenant-Governor Cranfield in 1685. The eighth article in particular reflects the religious problem:

The ministers contrary to his Majesty's commission, which grants liberty of conscience to all Protestants, have their dues withheld from them, even those due before Mr. Cranfield came, and are threatened with six months' imprisonment for not administering the sacrament according to the liturgy of the Church of England.⁵⁰

The contradiction between their present claim of liberty of conscience and their behavior through the General Court at Boston only forty years before seems not to have been noticed by the citizenry of Portsmouth. What they actually saw was a threat to their establishment of religion by another establishment. What they did not see was that they themselves were also violating the concept of freedom of conscience in their actions toward Anglicans and Quakers. What they did not understand was that all religious groups might have been able to

⁴⁹ *Ibid.*, 519-32.

⁵⁰ *Ibid.*, 556.

live together. This last was not a part of the seventeenth century tradition.

While the complaints of the colonists were being presented to the Lords of Trade in England, Cranfield was quietly making his plans to quit the stormy province. Soon he was on his way, first to Jamaica, thence to England, where he soon received another official appointment.

What effect had this episode upon the development of the church-state tradition? A study of subsequent laws avails us little. Cranfield tried to force upon unwilling freemen a form of the Church of England, in a sense fulfilling one of the admonitions of his official commission. The act for the encouragement of the ministry, passed in 1682, was noted in the complaint against him in 1685. Probably the struggle between the two main contenders for the legal establishment allowed other Protestants to follow the dictates of their own consciences. Of this we cannot be sure. There is tangible evidence, however, that Congregationalism was not at all submerged. The strength of the Puritan orthodoxy was not at all weakened by the opposition of the Anglican governor. Indeed, in the midst of the battle between Cranfield and Moody, the First Congregational Church in Nashua was being established with Thomas Weld duly ordained and settled as pastor. This became the fifth church of the province, all of them Congregational in creed. As for the Church of England, it receded into the background, not to be heard from as an organized body in New Hampshire for another forty-five years.

The excitement and furore of the Cranfield administration did not make any significant impression on those responsible in England for the granting of royal commissions. Those issued for Joseph Dudley in 1685 and for Sir Edmund Andros in 1686 were practically the same as Cranfield's. Andros' commission included the following:

And above all things Wee do by these presents Will and Require & Command you to take all possible Care for the Discountenance of Vice and Encouragement of Vertue and Good Liveing, And for the Greater ease and Satisfaction of our Loveing Subjects in matters of Religion Wee do heereby Will Require and Command that Libertye

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of Conscience be allowed to all persons, and that such Especially as shall be Conformable to the Rites of the Church of England to be particularly Countenanced and Incouraged.⁵¹

One matter at least had not been settled by the discreet departure of Cranfield from the province. Rev. Seaborn Cotton of Hampton found himself having difficulty in collecting his settlement from the town, this presumably because of the Cranfield law of 1683 which stated that "the people in the several towns were left at their liberty, whether or not they should pay their ministers, unless their ministers would administer Baptism and the Lord's Supper to such as desired it, according to his Majesty's letter to the Massachusetts."⁵²

We have no information as to whether these settlers were of the faith of the Church of England, whether they were of faiths other than Congregational, or whether they were seeking an easy way out of paying the rate of an unpopular minister. Cotton, in his petition to His Majesty's Council for the Province of New Hampshire, stated that "too many people have taken occasion thereby, both to withhold what was my due before that act, for the year 1683, as also for the year 1684, and are likely to do so for the year 1685," unless the Council should come to his rescue. The distraught man requested haste of the Council because, as he put it, "The time [is] also drawing nigh when for this instant year I should have my rate made and doth hasten me to present this address, and to request your Honor's favor therein."⁵³

The reply, both short and direct, stated that the petitioner should resort to the law to obtain his just due from those persons with whom he had contracted. This does not imply that there was any doubt as to the intent of the province. It was assumed that ministers should be paid. The pastoral status, if there were any doubts, was clarified by the law of June 8, 1686, one which concerned the bounds and powers of the town:

It is also Ordered, That all Contracts, Agreements, and Orders regularly Made in any Town, respecting either their Ministers or School

⁵¹ *Laws of New Hampshire*, I, 153, "Commission of Sir Edmund Andros," commissioned June 3, 1686. This volume also contains copies of the commissions issued to Cranfield in 1682 and Dudley in 1685.

⁵² *Ibid.*, 85.

⁵³ *Provincial Papers*, I, 587.

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Masters as to their Maintenance, or any other Person Concerned for the publike Benefit of the Town, shall remain good and valid for the whole time that they were made for, and shall accordingly be Pursued, put into Execution, and Fulfilled.⁵⁴

Actually this law merely restated what was already the accepted practice of the province.

Congregational Monopoly

The decade following the hurried departure of Cranfield from New Hampshire reflected the turbulent times in England and the autocratic approach of King James' officials in the colonies. Edmund Andros, like his predecessor, Cranfield, attempted to improve the status of the adherents of the Church of England. There is no evidence that he reflected the Catholic leanings of his monarch. In spite of the Governor's efforts, the Congregationalists remained in the saddle and legally continued their supremacy in the few New Hampshire towns. Problems of trade, wars with the Indians, and the several Indian raids upon the settlements tended to push religious affairs aside. The Church of England was much too weak in the northern province to take any advantage of the Governor's favor. According to Belknap, Andros, during his short regime, infringed upon freedom of conscience. The historian, however, gave no evidence concerning the nature of this infringement.⁵⁵

When the news arrived in Boston about the flight of James II and the revolution in England, the citizenry rose up immediately and seized the representatives of the crown. According to one account, that of Edmund Randolph, Andros' secretary, the leaders in the rebellion were Puritan ministers:

The Ministers, who in their government were cheife in advising and directing matters of publike import, as well in electing Magistrates as in making laws and what else did relate to the government, and now cheife in contriving and setting on foot this generall revolt and subversion of government:—were not consulted with—

Five ministers of Boston, viz., Moode, Allen, Young, Mather, Wil-lard, and Milburn, an Anabaptist Minister, were in the Council Chamber on the eighteenth of April when the Governr and myselfe were

⁵⁴ *Provincial Papers*, I, 600.

⁵⁵ Belknap, 119–20.

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brought out of the Fort before them, writing orders, and were authors of some of their printed papers.⁵⁶

Shortly thereafter the new government of William and Mary, in July, 1689, ordered that Andros and several of his aides be returned immediately to England.⁵⁷ Reports from several town meetings in New Hampshire during the same year reflect the unsettled condition of the province. That of Dover Neck, for example, stated that the colony was "destitute of Government. . . ."⁵⁸ The proceedings of Portsmouth used almost the identical language. Just as they had fifty years earlier, the New Hampshire towns drew close to Boston for protection. As in 1640, they petitioned for inclusion in the Massachusetts colony. The Bay Province with alacrity welcomed them into a new union, again without any regard for the necessity of obtaining proper authority from the English government. Fear of Indian raids was apparently the decisive force in pulling the two colonies together again.

Freedom of Conscience Denied to Roman Catholics

This new state of affairs lasted only until William and Mary were able to pull together the many strands in the web of British government. In March of 1692 they appointed Samuel Allen to be governor over New Hampshire. His commission contained no religious clauses whatsoever, but the accompanying instructions showed a marked departure from those issued to previous governors. The anti-Catholic feeling which had helped to drive James II from his throne was echoed in colonial policy and in the instructions to provincial governors:

You shall administer or cause to be administered the Oaths appointed by Act of Parliament to be taken instead of the Oath of Allegiance and Supremacy, as also the test, unto the members and officers of Our

⁵⁶ *Provincial Papers*, II, 25. This is an excerpt from Randolph's account to the Lords of Trade, dated 29 May 1689. The ministers referred to were Rev. Joshua Moody, formerly of Portsmouth, the opponent of Cranfield; Rev. James Allen, minister of the First Congregational Church, Boston; Rev. Cotton Mather; and Rev. Samuel Willard, Old South Church, also president of Harvard College. Andros at this time was governor of both Massachusetts and New Hampshire.

⁵⁷ *Ibid.*, 29.

⁵⁸ *Ibid.*, 33.

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Council and Assembly, all judges and Justices, and all other persons that hold any office in Our said Province by virtue of any Patent under our great Seal of New-Hampshire; and you are to permit liberty of conscience to all persons except Papists, so there be a quiet and peaceable enjoyment of it, not giving of scandal to the government.⁵⁹

The chief differences from the previous instructions were (1) the exclusion of Roman Catholics from the province and (2) the failure to list the Church of England as the sect to be "particularly Countenanced and Encouraged."

Apparently the final report of Sir Edmund Andros as to conditions in New England, made after his return to Britain in 1690, had made little impression upon the government of William and Mary. He complained that the Church of England had been unprovided for as to a place for public worship. First, he had reported, he tried to use the meeting house in Boston at such times as it was unused. Because this gave offence to the greater number of citizens, the Anglicans built their own meeting house: ". . . understanding that worship in the Puritan meeting house by Episcopalians gave offence, they hastened the building of a Church, wch was effected at the charge of those of the Church of England, where the Chapplains of the souldiers prformed divine service and preaching."⁶⁰

While a church was built in Boston for Episcopalians, probably almost solely for soldiers and other representatives of officialdom, there was no like development in New Hampshire. Apparently Andros, Allen, John Usher (Allen's son-in-law, who governed New Hampshire for Allen), Partridge, and Bellomont, who were the appointed governors, did not care to oppose the Puritan monopoly in that province. Perhaps the memories of Cranfield's hasty departure were too close to them.

There is some evidence that Protestants other than Congregationalists were allowed to live and worship in the province, even though they were not favored by the general public. A Quaker, Edward Wanton, petitioned on behalf of himself and other Quakers to be relieved of the ministerial tax. He further requested that his goods which had been previously seized to pay

⁵⁹ *Ibid.*, 64-65.

⁶⁰ *Ibid.*, 26.

the minister's rate should be returned to him. The Council's reaction was a far cry from the cruel and hysterical orders of the early 1660's. It passed a resolution that Wanton, being a Quaker and attending worship other than the Congregational, should have his goods, which were being held by the constable, restored to him.⁶¹ This action merits close scrutiny because it—and like orders—set a precedent which was often followed during the next century. If the petitioner could prove that he was a practicing Protestant and was attending public worship, he might not be forced to pay the tax to support the official town pastor. He was, however, expected to support the church of his choice.

Act of 1693, "Maintenance & Suppley of the Ministrey and Schools within This Province"

One of the most important acts in the affairs of church and state, one which set the shape of religious practice for more than a century, was passed in 1693. This act, for "Maintenance & Suppley of the Ministrey and Schools Within This Province," placed the burden of selecting and paying the clergy squarely upon the respective towns in their town meetings. Because this law clearly stated what had been the practice and what was to be generally the practice until the passage of the Toleration Act of 1819, it should receive the close scrutiny of anyone who desires to understand the nature of church-state relations in provincial New Hampshire:

That is shall & may be Lawfull for the freeholders, of Every respective Towne Convened, in Publick Towne meeting: as often as they shall see occassion to make Choice of, & by themselves, or any other Person or Persons by them appointed, to agree with a Minister, or Min'est'rs for the Suppley of the Towne, And what Annuall Sallery shall be allowed him & the Minister, so made choice of, and agreed with, shall be accounted the Settled Minister of the Towne, And the Selectmen for the time being Shall make rates, and Assesm'ts upon the Inhabitants of the Towne for the paym't of the Min'sters Sallery as afores'd in Such maner & Forme as They doe for Defraying of other Towne Charges, which Rates by Warrant from a justice of peace w'th the select men to the Constable or Constables of the Towne, shall be by him or them Collected & payd according to the Direction of the select-

⁶¹ *Laws of New Hampshire*, I, 252.

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men for the end aforesaid, Provided allwayes that this act doe not at all Interfere with their Majesties grace & favour in Allowing their Subjects liberty of Contience nor shall any Person under pretence of being of a different perswasion be Excused from paying toward the support of the settled Minister or Ministers of the Towne, but only such as are Conscientiously So; and Constantly attend the publick worship of God on the Lords day according to their owne P^rswassion; And they only Shall be Excused from paying towards the Support of the Ministrey of the Towne, And it is hereby further Enacted & Ordained, that for the building & repaying of meeting houses, Ministeres houses School houses, And allowing a Sallery to a School Master in Each Towne within this Province the selectmen, in the respective Townes, Shall raise money by an Equall rate, an Assesm't upon the Inhabitants, in the Same maner as in this present act directed for the maintenance of the Minister. And every towne within this province, Dover only excepted during the warr, shall from & after the publication hereof provide a schoolmaster for the supply of the Towne, on penalty of Ten pounds per annum for neglect thereof, to be paid one halfe to their Majesties, the other halfe to the poore of the Towne.

John Usher,
John Gillman.

Thos. Davis, Secry. August 5, 1693⁶²

Albert Batchellor, State Historian, in an article in *The Granite Monthly* early in the twentieth century, tried to use the above law to demonstrate that religious freedom and equality were enjoined with the exception that Roman Catholics were left outside the fold. He wrote this while at the same time he stated that the standing order was enjoying a growth and prosperity which it had never experienced before.⁶³ What Batchellor fails to note is that there was the legal requirement that all citizens were expected to attend public worship, even those who were members of dissenting religious sects. What the law stated was that they should attend constantly public worship "according to their owne P^rswassion." This was clearly not easy in a province where any church other than the town's established church was nonexistent. To the best of our knowledge there were only five churches in the colony, all of them Congregationalist. Quakers, it is true, might have qualified by the process of holding meetings in private

⁶² *Ibid.*, 560-61; also found in *Provincial Papers*, III, 189-90.

⁶³ Albert S. Batchellor, "Qualifications of Electors," *The Granite Monthly*, February, 1919, 68.

homes. The same might have been true for other dissenters. There is no record, however, of such dissent. Proof of this nature is often difficult to establish in the eyes of officials who do not wish to see.

The seventeenth century did not bring that religious freedom and equality which Batchellor and others have asserted were conceded in the colonial laws. This is a myth which is often perpetuated in many of our school histories. Rather, in New Hampshire, at least, the arrangement appeared to be a *de facto* establishment of religion, one which was backed by the strength of the provincial courts. The law of 1693 and the several which preceded it allowed the citizens in any community, if they were Protestants, to saddle upon the whole of the populace taxation for the support of a single sect. True, there were legal loopholes, but the burden of proof was upon the dissenter to show (1) that he was a conscientious worshiper, (2) that he regularly attended public worship on the Lord's Day, (3) that he could prove this to the selectmen, the constables, and the courts. Then he might be excused from paying the minister's rate, provided that he could likewise prove that he was paying to support the pastor of his own sect. In a day of general intolerance the tendency was strongly against the acceptance of dissent.

There were elements in the law which were eventually to aid the cause of religious freedom. The act left the ministry subject to the will of the people in the separate towns. In fact, whether or not there should be a minister, was left to individual communities. The language of this law did not force the towns to establish pastorates; rather, it gave freemen the privilege of selecting a minister or ministers and of establishing churches. No sect was specified, a fact which became increasingly important during the next century. The climate of opinion, it must be added, required that each town should have a settled minister, if a settlement were at all possible.

Problems of Expansion

Even though the act gave the towns the privilege of selecting and of settling ministers, it did not relieve the provincial Gover-

nor and Council from involvement in local affairs. One group of disgruntled citizens of Portsmouth, for example, not being able to obtain satisfaction in town meeting, presented its humble petition to the Lieutenant Governor and his Council to the effect that it found difficulty in attending public worship in town. Those petitioning pointed out that, because of the great distance from Great Island to the Bank, because there was no way except by water, because their numbers included many poor people—men and women and children, they were often denied the enjoyment of hearing preaching on the Sabbath Day. To give a more ominous note to their plea they added that their lengthy absence from the Great Island (now New Castle) often left the king's fort and all the stores of ammunition "destitute of assistance, and lyes exposed to ye surprizall of ye enemie and our owne destruction. . . ." ⁶⁴ The Council thereupon ordered the selectmen of Portsmouth to appear before it and to show cause why the Great Islanders should not be constituted a separate township with all of the immunities and privileges of the other towns.

The selectmen for their part stated that they thought it would be inconvenient for these inhabitants to be removed from the Portsmouth parish. (It was always inconvenient for a town to lose tax support.) At the same time the selectmen admitted and recognized the difficulty of the islanders in attending public worship and suggested that they ought to have a minister of their own on the island. The Council in a very close decision voted for the separation of Great Island. Thereupon the Governor declared that Great Island should be a town, separate from the Bank (Portsmouth). ⁶⁵

This action, of course, was the first of many which were to follow during the next century. It was not necessarily a difference in theology which would take part of a congregation either to the courts or to the Governor and Council. One more incident, also having its beginnings in the seventeenth century, helps to show the developing pattern—the towns and selectmen reluctant to allow change, the Governor, Council, and Assembly more ready

⁶⁴ *Provincial Papers*, II, 92.

⁶⁵ *Ibid.*, 92–98. The date of separation was March 17, 1693.

for a new approach.⁶⁶ Greenland, four or five miles southwest of the more populated center of Portsmouth, likewise failed to get fair treatment at town meeting. After long wrangling, in May of 1705, the Greenlanders presented their case to Governor Dudley. They argued, like the Great Islanders before them, that distance presented a problem, first because of bad traveling conditions during certain seasons of the year, second because of the ever-present danger from the Indians. As they stated their case:

. . . it is difficult and tedious to gett to the said meeting, or to send their children every day to school being not able to Table them abroad ; Soe that your poor petitioners are almost deprived of publickly hearing the word of God or getting their Children Educated with a Reading and Writing and your petitioners have desired at a publick Town meeting to have the Liberty of a minister and schoolmaster among themselves.⁶⁷

The Greenland petitioners, like those of the Great Island before them, had discovered that the freemen and selectmen were strangely silent in the face of their well-grounded plea. For their part, the Governor and Council immediately referred the petition to the selectmen to make answer and objections within a month's time. Within the time, at the regular Portsmouth town meeting, the inhabitants of Greenland had returned to them their proportion of the rates collected for the support of the settled minister of Portsmouth. Within the year, in April, 1706, land was set aside in Greenland for the establishment of the ministry and the school.

To sum up, the Act of 1693 clearly reiterated the fact that the church was a public, tax-supported institution and the pastor a civil servant. It clearly put the church right in the middle of the political arena to become a matter of discussion, perhaps of heated controversy, at every town meeting. One effect of this and similar legislation was, clearly, to make salaries and other settlements for the pastor matters of civic debate. Dis-

⁶⁶ See Appendix A, section 3, for clarification of the terms used to describe the legislature of New Hampshire. The terms may be confusing since the provincial records used several terms to mean the same thing.

⁶⁷ *Provincial Papers*, IX, 320-21.

senters from the established town order would be required to make their dissent a part of the community's official record. Religion could not be strictly a matter of conscience between a man and his God. Rather it had to become also a matter between a man and his government. Problems of adding new churches, of eliminating old ones, of dividing town taxes between two or more—all of these were to take their place in the public forum along with problems of war, of land disputes, of road building, of finance.

Richard Upton states that the result of this act was to create a situation such that "it was extremely difficult for a minority sect within a town to gain exemption from paying tithes to a church established by the majority. Minority sects or even minority groups within a single sect could gain such exception only by a special act of the General Court."⁶⁸ One can see why the citizens, whether or not they were particularly religious themselves, would hesitate to free others from public taxation, thereby increasing their own financial burdens.

Summary—The Seventeenth Century

As the seventeenth century came to its close, the religious controversy in England again pushed itself into the colonial scene. In July of 1696 the province enacted a law which required all male persons, sixteen years and above, to take an oath of allegiance to the king, and in a sense to Protestantism. The law, at the same time, demonstrated a new attitude toward the Quakers. It concluded with a clause which was to appear frequently during the next century—"And whereas there are certain persons who are scrupulous in swearing, every such person or persons shall make & subscribe the Oath of fidelity following viz:"⁶⁹ The alternative oath itself was essentially the same as that required of male citizens in general:

I, A B, do sincerely Promise and solemnly Declare before God and the world, that I will be true and faithful to King William and

⁶⁸ Richard F. Upton, *Revolutionary New Hampshire*, 208.

⁶⁹ *Provincial Papers*, III, 201. This is quoted from "An Act requiring all persons to take ye oath of Allegiance and Supremacy," dated July 8th, 1696.

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Queen Mary; and I do solemnly profess and declare that I from my heart, abhor, detest and renounce as impious & heretical, that damnable Doctrine and position, that Princes excommunicated or deprived by the Pope or any authority of the See of Rome, may be deposed or Murdered by their subjects, or any other whatsoever; and I do declare that no Foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any power, jurisdiction, Superiority, preheminance or authority, Ecclesiastical or Spiritual, within the Realm of England, or any of their Majesty's Dominions.⁷⁰

Thus, as the controversy in New Hampshire among Puritans, Episcopalians, and Quakers appeared to ease, tension between Protestants and Catholics became more pronounced. This stated opposition to Catholicism continued throughout the remainder of the provincial period of New Hampshire's history.

This then was the status of church and state in the province of New Hampshire. Following the pattern which had been brought from England and fostered by their recent Massachusetts overlords, New Hampshire had created its religious establishment in the European tradition, that of having the ministry supported by public taxation. It should be noted that there were differences in New Hampshire which had significance as far as future developments were concerned. Typically in Europe, as also in Massachusetts, the established church was specified. In England, for example, the official church—supported by public taxation—was the Church of England. While New Hampshire stipulated that each town should have a church, the town was given the authority to choose its minister from any Protestant sect, a fact which led to diversity in the next century.

Zealous leaders in the respective towns tended to be vigilant in their maintenance of the Puritan order, opposing with all their power any who would depart from it. As the century drew to its close, the power of provincial Governor and Council had to be called in several times to ameliorate the effect of religious autocracy. There was gradual acceptance of the Quakers in the colony, in spite of the vicious mid-century laws designed to exterminate them. As the new century dawned, demands for the right to separate from the existing town churches began to crowd upon the

⁷⁰ *Ibid.*, 201-02.

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legislative scene, as though they were an omen of things to come.

Although there were a few Episcopalians and Quakers in the colony, and possibly a few Baptists, the controlling element was Congregational. Moreover, according to law, all citizens were expected to be loyal supporters of the church established by majority vote. By 1700 there were only five churches in the province—all of them Congregational, all of them the established order in their respective towns. New Hampshire, like Massachusetts to the south, had its Puritan theocracy and an established church in the European tradition.

II

The Eighteenth Century— Expansion of the Colony

BREAKING DOWN THE EUROPEAN TRADITION

As GOVERNMENT became more stabilized, as the threat of Indian incursion lessened, as population grew, the inhabitants of the province began to scatter from the centers of population at Portsmouth, Exeter, Hampton, and Dover. They did not stray far, for they needed their united strength in the Indian wars which were so much a part of the life of the eighteenth century. Moreover, they needed the resources which could be obtained only from ships.

Beginnings of the Breakdown

Each of the new towns, as its population increased and scattered, faced the problem which had taken the citizens of Great Island and Greenland to the Governor and Council. Town meetings seemed to be completely unable to give redress to grievances, and appeals continually had to be made to higher authority. While the incidents leading to conflict differed, developments always followed pretty much this same pattern. In Hampton the death of Rev. John Cotton became the spark for a separatist movement. The majority of the freemen from the southern section, Hampton Falls, three miles to the south of the main center, entered a petition to have relief from the town tax, so that they could procure and maintain a minister of their own, one who would be supported by a grant of land, a parsonage, and a salary

settlement. The original petition must not have told the whole story because, upon investigation, the Council at Portsmouth ordered that the whole town pay arrears to the deceased pastor's wife. Then it ordered that a committee be appointed to consider the problem of dividing the parish, settling lands for another parsonage, and procuring and maintaining another minister.¹

In dealing with these cases the Council considered the most infinitesimal of details. Its time and energy went into questions of the division of the parish, the amount of money to be paid each pastor, the way this settlement was to be apportioned—amount in cash, amount in provisions—and so on. In this Hampton Falls case the Council was still dealing with the question in 1712, two years after the original petition. This time some of the townsmen appealed because not all charges were covered by the town rate, charges such as wood for the minister, fencing for the parsonage land, payment for the schoolmaster, and other "charges that doth rise relating to Minister and schooling, which cannot be equally discharged or promises justly performed, without a Tax on the Inhabitants in this parish."²

Indeed the Council and Assembly had not settled this problem before Portsmouth again found itself in turmoil. This time Bloody Point asked the Council and General Assembly for permission to separate from the two towns of Dover and Portsmouth. The legislative body called in the selectmen of the two towns for their viewpoints. It listened to the petitions of individuals who wanted to have a new town and to other individuals who wanted to remain in the original towns. Again the Council and the General Assembly concurred in the opinion that separation was a proper conclusion. Thus Newington was born.

As one reads the *Provincial Papers* and various town records he marvels at the patience of the Council and the Assembly in hearing petition after petition. The process tended to follow a set pattern. First, there would be resentment against the controlling authority in town and church, primarily from those living on the fringes of town. Second, there would be failure to come to an agreement in town meeting. Third, there would be the peti-

¹ *Provincial Papers*, III, 428-32.

² *Ibid.*, 514ff.

tion to the Council and the General Assembly. Fourth, that body would order the selectmen to appear to explain the situation. Fifth, it would order a committee to be appointed to determine a course of action. Sixth, after charge and counter-charge, the legislature would authorize a division of the parish. Seventh, the dissatisfied element would petition either to be added to the new parish or not to be taken away from the old. Eighth, some petitions would be granted, others refused. Ninth, after a year or so, new petitions of a similar nature would find their way to the government. Tenth, after parish lines had been stabilized, the parishioners, finding the cost of maintaining pastors rather steep, would petition for the privilege of charging nonresident proprietors for part of the cost of supporting the ministry.

This public wrangling over parish bounds and the ministry often extended over a decade. A petition from Hampton appeared as early as 1710. It was not until 1726 that the south parish of Hampton, now Hampton Falls, was empowered fully and separately to make a rate on all persons and estates within the parish for the payment of a minister's salary and "to be utterly free from having anything to do with the first P'ish, or the first P'ish in Hampton with them, relateing to the ministers sallary."³

While Portsmouth and Hampton struggled with each other, Dover also found one of its sections, Oyster River (now Durham), straining at the leash. As in the other cases Oyster River soon gained its freedom from Dover and the Dover parish after the usual petition and counter-petition.⁴ The first contract was made between the town of Durham and a pastor of its own in April, 1717, and the church officially was instituted and separated from Dover in March of 1718. This procedure took only three years.

In like manner other parishes organized themselves in the southeastern corner of what is now New Hampshire. Cell after cell split off from the original four towns. Exeter soon gave birth to New Market, this also with the help of Council and Assembly. Between 1700 and 1732 the population of the prov-

³ *Ibid.*, IX, 339.

⁴ *Ibid.*, III, 607-715.

ince doubled, jumping from 6,000 to 12,000, giving good reason for a splintering of the parishes. In the earlier year five towns were represented by eight members in the General Assembly; in 1741 thirteen towns were represented by twenty members.⁵

The colonial legislature apparently did not think of rebelling against its time-consuming involvement in the internal squabbles of town churches. It saw its function as that of keeping a watchful eye over the growing settlements. As time went on, it often took steps to ensure that the newer communities maintained religious worship of the orthodox type. As small isolated groups strayed from the more populated centers, they often became negligent of their religious duties. In 1716 the House of Representatives (the new name for the Assembly) found it necessary to pass an act admonishing these recalcitrants to live up to their church responsibilities. It voted that such towns or parishes which neglected to call and settle an orthodox minister should pay toward the support of the ministry in the town or parish out of which they had sprung or in a neighboring town after six months of such neglect.⁶

In general no startling changes are observable during the first three decades of the eighteenth century. The royal commissions of Samuel Shute (1716) and William Burnet (1728) are almost identical as to the law concerning liberty of conscience. That issued to Burnet included the following provision:

You shall permit a liberty of Conscience, to all persons (except Papists) so they be contented with a quiet and peaceable Enjoyment of the Same, not giving offence or Scandal to the Government.⁷

The act for the support of the ministry and the public schools, passed in 1714, is essentially the same as that promulgated in 1693. The Puritan Church was no longer challenged by the Church of England in Portsmouth. The Governors following Cranfield evidently preferred not to make an issue of that hot potato. All of the new parishes were orthodox (Congregational)

⁵ *Laws of New Hampshire*, II, 588.

⁶ *Provincial Papers*, XIX, 92. This is an extract from the Journal of the House, 25 August 1716. From this point on, "House of Representatives" will be used instead of "Assembly" or "General Assembly." See Appendix, p. 188.

⁷ *Laws of New Hampshire*, II, 229 (Shute), 433 (Burnet).

in their preaching. The temper of the Council had mellowed tremendously since the excesses of its Boston counterpart of the 1660's and there is no evidence in the eighteenth century of wild persecution of minority religious groups in the colony.

Quakers and Episcopalians Gain Acceptance

In fact, quietly but persistently the Quakers overcame much of the animosity against them, even to the point of being accepted as part of the body politic. Some, indeed, were elected representatives to the provincial legislature, others as constables of their towns. Several of the latter, early in 1729, presented a petition to the Council and to the House of Representatives praying that they be exempted from collecting the minister's rates.⁸ Their first petition must not have received much attention, because they followed it with a fuller statement which explained their case more clearly. They humbly requested Governor Belcher and his Council that they should not be imposed upon when they were chosen as constables of the town to collect taxes or assessments which were levied for the support of the ministry. Indicating how much the province's official position had changed in seventy years, they went on in their petition to justify their request on the basis of other liberal legislation of the General Court:

We do humbly crave that you would be pleased to consider of this matter for altho we are exempted in ye law from paying any part or proportion of such taxes or assessments yet nevertheless we are Required when we are Chosen Counstables to Leve and Collect ye same of others which is contrary to our principles to pay such taxes neither can we gather ye same of others; whereupon we have been and are likely to be under great sufferings notwithstanding we Refuse not neither do we desire to be excused from serving [as] Counstables in any other part of the Office whatsoever—we desire that you would be pleased to pass an act by which we may be Released from being Compelled or Required to do that which is contrary to our principles relating to ye matter above mentioned which is the humble request of your friends Comonly Called Quakers.⁹

Confirming the climate of opinion suggested in the petition, that the Quakers had been accepted as members of the body

⁸ *Provincial Papers*, IV, 536.

⁹ *Provincial and State Papers*, XVIII, 40.

politic, the Council in 1731, with the concurrence of the House of Representatives and Governor Belcher, voted that in any town in the province where a Quaker had been chosen as constable another person (not a Quaker) should be chosen as "Constable, to gather the Ministers Rates," as follows:

Bee it Enacted by his Excellencie the Governour, Councill and Representatives Conven'd in General Assembly, and by the Authority of the same: That in Every Town Parrish and Precinct within this Province when and so often as any of those People Called Quakers Shall be chosen to the office of Constable, That such Person Shall be Exempted from gathering the Ministers Rates of any other perswation. And That Every Such Town parrish or precinct shall make choice of another person (not a Quaker) to be Constable, to gather the Ministers Rates in Every Such Town parrish or precinct and such Constable so Chosen shall have all the powers and authorities that other Constables have any Law usage or Custom to the Contrary thereof Notwithstanding. Passed May 10, 1731, 4 George II.¹⁰

Nor was this the only indication that the Quakers had a new status in society. Five years later they presented another petition to the provincial government, this time to the effect that they should be relieved from swearing oaths. Again the Council and the House assented.

That Puritanical intolerance was giving way to a new spirit was also evidenced by the reappearance of the Church of England in Portsmouth. Batchelder stated that ninety years having passed since the suppression of the Episcopal Church in Portsmouth by Puritan intolerance and persecution, the Church of England could again be introduced.¹¹ Several men of means, active in government and in commerce, many of them high officials in the colony, "contributed to the erection of a neat building on a commanding eminence in Portsmouth, a church which they called the Queen's Chapel."¹² This new religious center was consecrated in 1734, a full century after a previous group of Anglicans had performed a like ceremony. Two years later, in 1736, Rev. Arthur Brown was secured to be the minister. Funds for the purpose were largely made available from the Society for Propagating

¹⁰ *Laws of New Hampshire*, II, 530.

¹¹ Calvin R. Batchelder, *A History of the Eastern Diocese*, I, 140-41.

¹² Jeremy Belknap, *History of New Hampshire*, 234.

the Gospel in Foreign Parts. From this time until the Revolution, the Church of England was favored, if not by the legislature and the majority of the people, at least by the ruling class in the town of Portsmouth.

Expansion into the Interior

With the end of Queen Anne's war in 1713, the agitation among the Indians by the French largely declined, and danger to new settlers appeared to lessen. Consequently the interior of the province of New Hampshire became more appealing as a place for settlement. As a result of these changed conditions, along with encouraging offers which were being made by trading companies and proprietors, a considerable number of Scotch-Presbyterians from the north of Ireland emigrated to the New World. Making their way northward from Boston, a large number of families settled upon some land a short distance north of Haverhill and requested a charter from the Bay Colony's General Court. Their petition rejected, they applied in 1719 for a charter of incorporation from the government of New Hampshire. This second request, signed by approximately one hundred persons, was tabled until His Excellency the Governor should next come into the province.¹³

Fry suggests that it was probably tabled because the acting executive, Lieutenant-Governor John Wentworth, was doubtful of his ability to make an actual grant of land he was not sure came under New Hampshire's jurisdiction. The inhabitants, however, had already cast the die but were in no position to do more than resubmit their petition to the provincial authorities. In another request, in 1721, they pointed out that their numbers now exceeded 360 souls, 130 of whom were capable of bearing arms for His Majesty King George. Moreover, they stated that they were carrying on all the parts of good husbandry and had already built a house for the worship of God. Again they humbly requested that they be duly chartered and invested with town privileges by the royal authority. In order to protect itself

¹³ William Henry Fry, *New Hampshire as a Royal Province*, 276ff.

from subsequent litigation, the provincial government included the following saving clause in its charter:

. . . that Nothing in this our said Grant shall extend to or be understood to extend to Defeat prejudice or make null and void any claim Title or pretence which our Province of the Massachusetts Bay may have to all or any part of the Premises Granted as affore-said . . . by Reason and means of all or any part of the Granted Premises falling within the line as Boundaries of our said Province of the Massachusetts Bay.¹⁴

In this way the provincial government granted and distributed lands which might not have been within its power to apportion.¹⁵ This grant, known as the Londonderry Charter, mentions nothing specifically about the establishment of a religion or even a church, nothing about settling a pastor, nothing about restrictions upon any religious groups. All that one can find is the indirect statement that the freemen of the town should by a majority vote choose all town officers according to the laws and usage of the other towns within the province. This, if followed precisely, would have required the establishment of the ministry. It should be added that the writers of the charter must have assumed that the town would provide for the ministry. Included in the land division was the provision that the minister should have a share of the land and that another share was to be set aside as the parsonage lot.

While these negotiations were going on, Governor Shute, in the name of King George, in May, 1722, granted several large tracts of land north of Londonderry and west of the coastal communities. These became the towns of Chester, Nottingham, Barrington, and Rochester. Their four charters were much more specific in making provisions for religious purposes and for the settlement of a pastor. That of Nottingham illustrates the conditions which were laid down in all four:

That every proprietor build a Dwelling House within Three years & settle a family therein and break up three Acres of Ground and plant & Sow the Same within four years and pay his proportion of the Town Charge when & So often as Occasion Shall Require the Same.

¹⁴ *Provincial Papers*, IX, 480ff.

¹⁵ *Ibid.*, 483.

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That a Meeting House be built for the Public worship of God within the said Term of four years.

That upon Default of any particular proprietor in Complying with the Conditions of this charge upon his part, Such Delinquent proprietor Shall forfeit his Share to the other Proprietors which Shall be Disposed of according to the Major vote of the said Commoney at a legal meeting.

That a Proprietors Share be Reserved for a Parsonage another for the first Minister of the Gospel, Another for the Benefit of a school. . . .¹⁶

Of the four specific conditions placed upon the settlers, two were directly connected with the church: (1) the building of a place for public worship and (2) a reservation of land for a parsonage and for the first minister of the Gospel. Barrington, for some reason, was given a slightly longer time to build its place for the public worship of God—seven years. Otherwise, the charters were practically identical.¹⁷

The making of this semicircle of five grants behind the original coastal centers did not relieve the pressure of immigrants who were seeking to become freeholders in the province. Both Massachusetts and New Hampshire made additional grants in what is now New Hampshire during the decade following 1720. In a great arc from Chester on the south, generally following the Merrimack River and its tributary streams to the mighty Lake Winnepesaukee, the provincial authorities granted all of the land in six townships. Three of these—Bow, south of present-day Concord, Canterbury, north of Concord, and Gilmanton, south of the lake—were very large and had extensive lengths of river or lake frontage. The other three—Epsom, Chichester, and Barnstead—running from south to north, joined these to the older towns to the east. Much smaller and probably less desirable, they do not appear to have been so quickly settled.

These latter town charters, granted by Lieutenant Governor John Wentworth with the usual consent of Council, followed in general the terminology of the earlier Shute grants. They too provided that the proprietors should settle within a short period (in the case of Barnstead, three years), that they should con-

¹⁶ *Ibid.*, 631.

¹⁷ *Ibid.*, 424.

struct a meeting house for the public worship of God (Barnstead within four years), that there should be a proprietor's share reserved for the parsonage, another for the first minister of the Gospel who is there settled and ordained, and another share for the benefit of the school of the town. The grants of Bow, Canterbury, Chester, Chichester, Epsom, and Gilmanton contained essentially the same clauses as did that of Barnstead. Indeed, all were granted within the same month and there was little reason for differences among the several charters.¹⁸

There were no other grants made by the provincial government in the 1720's. In fact, there was only one in the 1730's, this a grant by Governor Belcher of Lake Winnepesaukee land between Barnstead and Rochester. The conditions of settlement again included the requirement of building a meeting house at the charge of the proprietors within five years and an orthodox minister settled in the town within seven years unless an Indian war should intervene. Again there was provision for the minister of the town. Three hundred acres were reserved for the first ordained minister to be settled in the town by vote of the proprietors, and three hundred acres were to be reserved for the second ordained minister to be likewise settled. In addition, the charter provided that six hundred acres should be set aside for a parsonage or parsonages forever and three hundred acres for the use of school or schools. While minute details might differ, the intent of the several charters remained the same.¹⁹

The New Hampshire government was relatively quiescent during the 1730's; that of Massachusetts was much more active. A dozen or more grants were made to various proprietors for settlements on what is at the southern line of present-day New Hampshire. Included were grants for Goffstown, Pembroke, Manchester, Peterborough, Weare, and Winchester. That of Goffstown will serve to illustrate the great similarity between the grants of Massachusetts and those of New Hampshire.

. . . they within the space of four Years from the confirmation of the Plan have on the spot eighty Families, each settler to build a good convenient dwelling . . . , and also lay out three shares throughout the

¹⁸ *Provincial Papers*, XXIV, 421, 424, 525, 567, 576; XXV, 18.

¹⁹ *Ibid.*, IX, 456-57, Town Charter of Kingswood, Oct., 1737.

Town each share to be one eighty third part of the said tract, one of the said Shares to be for the first settled Minister, one for the Ministry, and one for the School; and also build a convenient Meeting House, and settle a Learned and Orthodox Minister within the term aforesaid²⁰

While the specific wording of the grants differed slightly, the particular provisions show that the two colonies had similar intentions. Perhaps the most significant difference is that whereas New Hampshire was willing to provide for "the first minister of the gospel," Massachusetts was more specific in demanding a "Learned and Orthodox Minister" be settled within the allotted time, usually four or five years. The difference may well indicate the more rigid orthodoxy of the southern colony.

What was the effect of these grants upon the *de facto* Congregational establishment which had existed at the beginning of the eighteenth century? From the evidence available one notes a gradual breaking down of the narrow and extreme orthodoxy. By 1740 the province of New Hampshire contained Congregationalists, Episcopalians, Quakers, Presbyterians, and probably some others in numbers too small to be organized into congregations. The law of the province still provided that there should be "liberty of conscience to all persons (except Papists) so they be contented with a quiet, & peaceable Enjoyment of the Same, not giving Offence or Scandal to the Government."²¹ In addition there existed the provision that each town should have the power of settling a minister upon the town and taxing the whole citizenry for his support. Moreover, each town, according to the wording of the several charters, was expected to settle a minister and to provide an adequate support for his services. There was little or no thought as to a possible conflict between the concept of liberty of conscience and the concept of an established ministry supported by public taxation.

Challenge to the Congregational Monopoly

As long as a town was predominantly of one sect, there was no real political problem. By common consent the freemen agreed

²⁰ *State Papers*, XXIV, 106, extract from Mass. House Journal, Dec. 6, 1732.

²¹ *Laws of New Hampshire*, II, 482, Royal Commission of Jonathan Belcher, who served from 1730 to 1741.

that there should be Protestant preaching. Once the community was sufficiently established it was expected that it would provide for continual religious worship and would tax accordingly. In Chester the Presbyterians joined the Congregationalists in the common worship during the pastorate of the town's first minister, Rev. Moses Hale. When he became incapacitated, the Presbyterians seized the opportunity to call Rev. John Wilson to become their pastor. A short time later, in 1736, the Congregationalists and the town settled a Reverend Mr. Flagg as the town's minister and ordered that the whole town be assessed to provide for his support. At this the Presbyterians, who were supporting Wilson with their voluntary contributions, protested vehemently but found themselves an unheeded minority.²²

Not being able to get redress from either the selectmen or the town at the annual meeting, the Presbyterians next turned to Governor Belcher, the Council, and the House of Representatives. Following the letter of the provincial law, they asked for an explanation of the law of liberty on the premise that since they were Presbyterians they should be exempt from supporting Flagg. After having tabled the matter for six months, the House of Representatives in October, 1737, voted to dismiss the petition. Upon receiving the record of this action the Council, with the assent of Governor Belcher, "read and non-concurr'd with the vote of the House for dismissing this Petition, the Council being of opinion that Petitioners are within the Saving of the Act of this Province Entituled an Act for maintenance and supply of the ministry. . . ."²³ The House "Read & Concurr'd."²⁴

With this legal interpretation in their favor, the Presbyterians returned home believing that they no longer had to pay a tax toward the Congregationalist establishment. At the next town meeting the groups met separately, the Congregationalists voting for Flagg's salary, the Presbyterians for Wilson's. The selectmen, still not sure of their ground, took the results of this meeting to the higher authorities for further approval. The House of Representatives this time endorsed the action, going on record as follows:

²² *Provincial Papers*, IV, 725ff.

²³ *Ibid.*, 729.

²⁴ *Ibid.*

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. . . [those] that are called Congregationalists and those that are called Presbyterians have power to act separately in Raising money for Support of yr Ministers Respectively for Defraying the Charges of building & Repairing their meeting houses and that they have power to chuse Wardens Seperate to assess all persons and their Estates belonging to their Respective Congregations²⁵

Thus, with the Council's approval and the Governor's assent, the men of Chester settled their differences amicably. A few years later the Presbyterians proceeded to build their own church.

In a province which was based upon a town system of running church affairs, the record must be mixed. What was acceptable at one time and in one place might well be entirely out of order at another time or in another place. What developed in Londonderry may be more illustrative of the vexing problems which beset the selectmen, the provincial government, and the worshippers of a community. This town, first settled by Presbyterians, included among its original inhabitants a revered pastor, Rev. James MacGregore. As time went on it was found expedient to divide the town into two parishes, one Congregational, the other Presbyterian; and their relations were apparently harmonious. When the Presbyterians settled MacGregore's son, David, however, the Congregationalists, now a majority, voted that the support of the ministry should be determined by a vote of the whole town. The Presbyterian parish, unable to get redress at town meeting, petitioned Governor Belcher for freedom from this "scheme projected purely to oppress & dishearten that Congregation or at least their present minister."²⁶ Specifically they requested that their part of the town should be freed and exempted from paying toward any other minister's salary or any other parish charges other than their own, or that both ministers of the town should be supported by an assessment on the whole town in common according to the legal and accepted practice. The House of Representatives, with the concurrence of the Governor and Council, ordered that the whole town be assessed in common for the support of the two pastors, each to be paid the

²⁵ *Ibid.*, IX, 106-16, Town Records of Chester.

²⁶ *Ibid.*, 496. This petition was taken to Belcher in 1739.

salary which had been previously agreed upon. The government further ordered that this arrangement be adhered to for a three-year period.²⁷

The official document had hardly a chance for its ink to dry before other Londonderry petitions descended upon the officials. Some desired to leave the old parish for the new; others to go from the new to the old; still others were dissatisfied with the whole arrangement. Within the year there came a request for the creation of a third parish. In other words, the apparently fair redress of a grievance was but a temporary palliative. A change of pastor might be a sufficient spark to ignite a fire devastating enough to cause a complete realignment of the religious loyalties of the residents. What was satisfactory at one moment, because of the human element, might be completely abhorrent the next.

Much as one regrets the narrow and too often bigoted action of the town meetings, he should not let this obscure the whole picture. A study of the record of the provincial legislature during the 1720's and the 1730's tells a different story. It appears that Governor Belcher and his Councilors were conscientious in their efforts to be just and fair in their interpretations of the law. Petitions to them tended to be answered in the direction of freedom of conscience. While they supported orthodoxy, those who could show that they sincerely worshipped, even though not orthodox, were given opportunity to go their own way. However, in spite of the liberal tendencies of some of the leaders, the basic condition of a *de facto* Congregationalist establishment did not change. The real power to rule resided in the local communities, in the town meeting, with the selectmen, and in the people themselves. These were predominantly Congregational.

In many respects the provincial authorities passed legislation which strengthened the Congregational establishment. They gave the towns authority to levy taxes upon nonresident proprietors for the support of the ministry. They empowered Rochester, for example, to levy a tax of fifteen shillings per year for a seven-year period toward the support of a gospel minister,

²⁷ *Ibid.*, 495-500.

this tax to be paid by all nonresident proprietors. As much was done for Weare and several other towns in the province that were having difficulty in supporting their ministers.²⁸

Other cases indicate considerable liberality. In Greenland, for example, Thomas Packer, Thomas Marston, and William Simpson were cleared from paying to the minister of their parish because they were attending divine worship at Portsmouth (probably Church of England). In that same year of 1739 William Jenkins was exempted from paying the ministerial tax because he worshipped as a Quaker.²⁹

The religious climate was such that both Anglicans and Quakers found their lot much improved. In 1732 the Church of England arose again in Portsmouth, the Queen's Chapel being organized by some of the leading citizens of the province. This does not mean that bitterness had ceased; all was indeed not serene below the surface. Chafing there was among some of the Anglican leaders who helped to create the new church, some of it toward Governor Belcher himself, because they thought he should be one of their most ardent supporters. Theodore Atkinson, one of the Governor's councilors, wrote bitterly to Mr. Thomlinson in London:

The Governor may make what pretences he pleaseth but he is the greates Enemy the Church of England hath upon this Continent, I believe & had it not been for him, I believe, ours in this place would have been finished, but he upon being asked whether he would contri-bute towards it said, not as a church, but if the proprietors would make a stallhouse of it he would give Twenty or Thirty pounds.³⁰

The adherents of the Queen's Chapel, in spite of their eminence and influence, had for a time to continue to pay the usual tax to support the orthodox church, even though Atkinson had also written in the same letter that "upward of one hundred families of the best sort of people had declared their determined resolution to support the Church of England and that it would be impossible for the town to maintain another Desenting Minister

²⁸ *Laws of New Hampshire*, II, 558.

²⁹ *Provincial Papers*, XII, 67.

³⁰ *Ibid.*, IV, 837.

when either of those now here shall be removed."³¹ Within the decade the Episcopalians were freed from the double tax. In spite of that, the Episcopalian rector, Rev. Arthur Browne, had to be supported by voluntary contributions plus the aid sent him by the Society for the Propagation of the Gospel in Foreign Parts.

As for the Quakers, in 1741 the provincial authorities eased still further the requirements upon them:

. . . That for the Future or Time to come, it shall be sufficient to all Intents and Purposes in the Law, for any Person or Persons whatsoever, who shall be by Law obliged to Swear, Swearing, to use the forms prescribed in the afore-mentioned act (An Act to Ease People that are Scrupulous in Swearing) *Mutatis Mutandis*, and that no other form or forms shall be required of such scrupulous person or persons by him or them who shall administer the same, and that such scrupulous persons shall be liable to the same penalties as if they should swear by holding up the hand.³²

This act relieving Quakers from swearing oaths does not mean that Quakers were completely accepted in every respect. Odd little tales continually crop up in the provincial records to show the mixed reactions of that day. One such concerns Daniel Meader, an elected constable in the town of Durham. In February of 1744 he petitioned the Governor and Council for relief from the job of collecting the list of rates committed to him to collect to pay a Rev. Mr. Adams, a former minister of the town. For some reason or other the town had not relieved him from the duty of collecting this tax, even though the townspeople were fully cognizant of the fact that they had elected a Quaker to be constable. They may have believed that this was not the minister's rate but rather the collection of a tax for the payment of and old town debt.³³

In the midst of matters deemed much more important, the House did not consider the petition during 1744. In February of 1745 Meader again appeared with a similar petition, this one in greater detail, adding the plaintive note:

³¹ *Ibid.*

³² *Laws of New Hampshire*, II, 584.

³³ *Provincial Papers*, V, 253ff.

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. . . your Petitioner humbly prays that as the Quakers have not yet paid the part of said Rates which they were assessed they may be Exempted & discharged from paying the same and be Exonerated from the burden of making such Collection And Farther as your Petitioner conceives the Collecting any part of said Rates was an unjust Imposition on him³⁴

The last time that Meader's name appeared in the House Journal in connection with this petition was December 19, 1745, two years after its first inclusion. Again the hearing of the petition was deferred, this time until after the next election in Durham. One can only surmise that the freemen of that town saw fit to elect another constable and that Daniel Meader, therefore, had no reason to continue his search for justice. In a sense this whole incident demonstrates the improvement of conditions in the province. Meader, after all, had been elected to public office. He, a Quaker, felt free to petition the House of Representatives. The legislature heard his plea. As far as the meager record shows, he was not punished for his failure to collect the legally fixed taxes of the town, unless it is punishment to fail to be re-elected.³⁵

Not all towns pursued a similar course in regard to the Quakers. Nottingham insisted upon taxing some of them to support the settled Congregational pastor. Daniel Sawyer, not being able to get what he conceived justice from the town, turned to the Governor and Council for proper relief. There is no record that the House acted upon his request. No legislative assembly can act on every laudable petition presented to it; and one must recognize that this government was preoccupied with raising muster rolls, finding funds for war, hearing cases of sundry volunteers of the late expedition against Louisburg. Sawyer's problem may well have been considered a picayune matter. Perhaps petitions on religious matters were becoming too numerous to carry either weight or importance. Indeed, Governor Wentworth several times suggested that they be put aside for more significant business.³⁶

³⁴ *Ibid.*, IX, 242.

³⁵ *Ibid.*, V, 396. It should be added that at least one Quaker had been elected to the House of Representatives. See Journal of the House for Thursday, Jan. 14th, 1742.

³⁶ *Ibid.*, 781.

The Mid-Century Religious Revivals

The religious revivals of the middle eighteenth century, led by Whitefield and others, had their effect upon the relations between church and state in New Hampshire. In many of the towns where the evangelists preached, the town meetings were thrown into an uproar as converts attempted to leave the more staid parish churches in order to find a form of worship nearer to the evangelistic way. Naturally those in authority did not want to lose the financial support of those who desired to withdraw. Wherever possible they refused to allow new parishes to be established. What happened in Exeter illustrates what also occurred in other towns of the province.

Scarcely had Exeter allowed the fringe parts of the town to break away—Epping, Newmarket, and Brentwood—than the religious awakening broke upon the town. The enthusiastic "New Lights," who included some of the wealthiest citizens, entered their written dissent when the town in 1743 attempted to settle Rev. Woodbridge Odlin, son of John Odlin, as his father's associate pastor.³⁷ Not only did forty-four persons enter written dissent; they also announced their withdrawal from the church and society and then established a religious organization of their own. Led by Samuel Gilman, once a selectman, they petitioned the town to be exempted from paying toward the settled ministry. As an alternative they suggested that a reasonable sum be allowed them annually toward the support of a gospel minister of their own. Upon the refusal of the town the dissidents appealed to the provincial government for relief from religious taxation,

³⁷ *Ibid.*, V, 719ff.; Charles H. Bell, *History of Exeter, New Hampshire*, 184–95. Bell records this event in the following manner: "The members of the First parish in Exeter were divided in their preferences. Mr. Odlin, their minister was a conservative, as were a majority of his congregation. But a considerable minority of them held different views. Mr. Odlin was getting on in years, and somewhat infirm, and was desirous of having his son Woodbridge settled with him Nearly two-thirds of his parish were of the same mind.

"The other third, the 'New Lights,' entered their written dissent . . . the sole objection was to his religious views and position. The dissentients seceded from the church and society

"These included Colonel Peter Gilman. Nicholas Gilman, Jr., deeded most of his property in 1746 to the new society. Peter Gilman, leader in the General Assembly, was among the petitioners. Rev. Daniel Rogers became their settled pastor in 1748. He was a warm friend and admirer of George Whitefield who had converted Rogers. Subsequently Whitefield preached in Exeter, first in 1754 and later in 1770."

provided they support a minister themselves. After repeated claims and counter-claims the legislature thought it proper to do nothing about the difficulty and let the several bills die in committee.

During that same year, 1744, George Whitefield attempted to visit Exeter but was met at the border by the elder Odlin, who warned him not to pass upon the latter's parochial charge. In spite of the vigorous opposition the "New Lights" continued their worship, supporting themselves as best they could, each year petitioning through an article in the town warrant for exemption from taxation or financial assistance to support a second ministry.³⁸ At length the persistence of the dissenters bore fruit. On the eighth of April, 1755, sixty-two members of the new society presented another petition to the legislators, asking that they and their associates be freed from paying taxes for the support of the "Old Light" ministry, either for the present or for the future. This time the House of Representatives did not avoid the issue.

Voted that the Petitioners be set off as a Distinct and separate Parish . . . for the time being and for the future that any person or persons shall come into said town shall arrive to the age of twenty one years such persons shall have the liberty of three months to determine to which Parish such Person will belong together with the Estates they then do or afterwards shall own, such Determination to be by giving notice thereof in writing unto the clerk of the new Parish within the said three months and in default thereof to belong unto the old Parish—that the petitioners be exempted from paying any Taxes unto the old parish . . . or to the support or maintenance of the minister in the old parish³⁹

Thus, positive dissent and support of the new parish enabled some to be freed from supporting the official town ministry.

From the above it should be noted that while the members of the new parish were freed from the onerous double expenses which they had been having for twelve years, they were not actually placed upon an equal footing. The first parish still had the benefit of public taxation. It still was the beneficiary of any

³⁸ Bell, 187.

³⁹ *Provincial Papers*, IX, 292. This volume also contains the record of many other petitions, dating from 1743 through 1755, 275-98.

newcomers who might not have been pulled toward either parish. Bell points out that warrants for the annual town meeting of the First Church in Exeter were addressed to all the inhabitants of the town exclusive of the legally established parishes—Newmarket, Epping, Brentwood, and the second parish of Exeter.⁴⁰

Similar difficulties plagued other towns. Stratham's ordained and settled minister, Rev. Henry Rust, fell out of favor with a large part of his congregation, who called Rev. Joseph Adams to preach to them. Like the Exeter controversy this one continued for over a decade—indeed a decade and a half. This time the death of Rust brought belated peace to a faction-torn people. In the interim, as has been noted earlier, town meetings had been the center for bickering over doctrine, church membership, church attendance, and the payment of the pastors' rates. Among other towns, Nottingham and Litchfield petitioned the House of Representatives for justice. Windham and Dunstable split wide open, large dissenting groups in each instance attempting to go their own way against the will of orthodox majorities.⁴¹

One thing, however, remains clear. The religious revival which divided the Congregationalists and spawned several new sects did not in itself breed religious tolerance. The established order fought vigorously to perpetuate its own power. Were the dissenter "New Light" Congregationalist, Episcopalian, Presbyterian, or Quaker, the town governments sought to use the resources of all the people to support the traditional way. The revival did not stir people deeply enough for a majority of them to see that others should have the same opportunities for worship as they sought for themselves.

The religious revival had barely struck New Hampshire when the provincial government underwent another change. Governor Belcher, who had been Governor over both Massachusetts and New Hampshire, even though each province had its own Council and House, was succeeded in New Hampshire by Governor Benning Wentworth. Looking back over the eleven years of

⁴⁰ Bell, 188.

⁴¹ *Provincial Papers*, V, 211ff. (Nottingham and Litchfield); 570-86 (Windham and Dunstable); 847ff. (Stratham). Most of these difficulties took place during the years 1742 to 1750.

Jonathan Belcher's administration, one sees them as eleven years of fair, middle-of-the-road rule. He was not extreme in his support of the established church. Likewise he did not go out of his way to oppose those who might wish to leave the orthodox way. There is little in the correspondence with authorities at home in England, with subordinates in New Hampshire, or with his friends to show that he had any strong feelings in the matter. In fact, as noted earlier, Atkinson, one of his Anglican councilors, was deeply perturbed because he refused to go out of his way to support the building of the Episcopalian chapel at Portsmouth. In retrospect it seems fair to conclude that his regime aided the forces which were developing to break down the single establishment.

What may be overlooked in the legislative actions of the 1730's and the 1740's is that, while the government often freed a parish or a dissenting group from supporting the town's settled minister, it accompanied these actions with the requirement that the dissenting groups support ministers of their own. Throughout this whole period there was the requirement that every citizen should support some religion.

Royal Authority and the Land Grants

Change in Royal Governors, Belcher to Wentworth

Belcher's successor, Governor Benning Wentworth, an Episcopalian, son of a former Lieutenant-Governor, was one of Portsmouth's first citizens. He had represented the town in the legislature for a number of years; he had had a seat in the Governor's Council, where he had often been in opposition to Belcher. With the aid of Thomlinson, the provincial agent in London, when the royal authorities decided to give the two New England colonies separate governors, Wentworth received the New Hampshire post.

During the early years of Wentworth's administration the Mason claims again came to the fore. Col. John Tufton Mason presented a "memorial" to the House to the effect that he could wait no longer for the provincial government to settle his land

claims, and that if they did not act he would sell his claims elsewhere. While the committee of the House of Representatives was negotiating with Mason as to an acceptable agreement, he sold his claim to a dozen proprietors, all leading citizens in the government. Their number included Theodore Atkinson, who received three fifteenths of the claim; Mark H. Wentworth, two fifteenths; Richard Wibird, John Wentworth, George Jaffrey, Jotham Odiorne—all one fifteenth each. Their quiet purchase of this claim to much of the province led to a tremendous furore to the tune of accusations that they had stolen land which rightfully belonged to all the people of the province. While the House now bargained with the new proprietors, the danger from the French again arose and negotiations between the province and the new proprietors came to a halt, not to be finally settled until after the province had become a state in the American federal system.⁴² The importance of these new Mason proprietors to this study is that they became another strong force in the granting of the lands of the province, in chartering towns, and in shaping the nature of the union between church and state.

The Grants of the Mason Proprietors

The purchasers of Colonel Mason's claim in 1749 obtained a second deed from him, this time receiving the rights to all that the Mason family had claimed in any part of the province of New Hampshire. On the basis of this authority, between 1748 and the American Revolution, the Mason proprietors granted or regranted land for well over eighty towns scattered throughout the province. While most were in the southern part of the state, a dozen or more were in the Lake Winnepesaukee region and three at least were north of the present White Mountain National Forest. Extracts from several of the grants illustrate how they helped to maintain the tie between church and state. That for Goffstown, for example, provided that a meeting house fit for public worship should be built within three years of the drawing of the lots and that there should be public worship regularly from the end of that three-year period. In addition, land was to be set aside for the first minister of the town who

⁴² Belknap, 296–300; Fry, 302–20; *Provincial Papers*, XXIX, 197–280.

should be regularly settled and another section was to be reserved for a parsonage lot.⁴³ The Dunbarton charter of December, 1749, contains even more detail as to the settlement:

Voted that one of the said Shares be for the Use of the first Minister of the Gospel who shall be Settled on the said Tract of Land hereby granted, & Shall remain there during his Life or until he shall be Regularly Dismist to hold to him his Heirs & Assigns. And one other of Said Shares to be for & towards the Support of the Gospel Ministry there forever . . . that the hundred Acre Lot belonging to the Share for the first Minister of the Gospel, and the hundred Acre Lot belonging to the Share for the Support of the Ministry as aforesaid be Laid out as near the place where the Meeting House shall be set as may Conveniently be done

That the said Settlers at their own Expençe Build a Meeting House there before the Last Day of May which will be in the Year of Our Lord One Thousand Seven hundred and fifty-two fit for the public Worship of God for the Use of those who Shall then or afterwards Live there and Constantly from & after that time maintain the Public worship of God there⁴⁴

In some of the grants, Hopkinton's, for example, there was the provision that "within seven years a minister be settled there at the Cost and charge of the Grantees and their associates"⁴⁵

Andover, Henniker, and Lyndeborough are illustrations of other towns which were required to have preaching within a specified length of time after the grant of land, this time ranging from three to eight years. Since the Mason proprietors did not have the power to establish legal government, there is little evidence of religious controversies being carried back to the proprietors. There is, however, evidence of appeals for their help in supporting the gospel ministry. Boscawen in 1756 sent a plaintive plea to "Honorable Theodore Atkinson" and the other proprietors for assistance from the nonresident proprietors in financing the settlement of a minister:

. . . we your humble Petitioners humbly pray that your Honours would take our Case into your wise Consideration, & Favour us as much as you can in these two Particulars especially, in Obliging the

⁴³ *State Papers*, XXVII, 297-98. Goffstown grant was dated Nov. 4, 1748.

⁴⁴ *Ibid.*, 193-95.

⁴⁵ *Ibid.*, 363-64. Hopkinton grant was dated Nov. 30, 1750.

BREAKING DOWN THE EUROPEAN TRADITION

Non resident Proprietors to assist us in supporting the Gospel Ministry among us till we are able to do it ourselves; and in confirming the land to us the Inhabitants upon as favorable terms as you can without which we cannot see but we must live without the Gospel Ministry, & our selves & our Children live, & be brought up in Ignorance, more like Heathen than like Christians⁴⁶

Difficulties in establishing the supported ministry did not deter the proprietors from granting more land. The availability of seemingly endless land resources and the eagerness of the proprietors to have them settled and improved made this era one of the great periods of expansion in the history of New Hampshire.

The Grants of Benning Wentworth

The Mason proprietors found a kindred spirit in the Governor himself. More than any other of the provincial executives, Benning Wentworth was eager to grant the unimproved lands within his domain. Interpreting his territory broadly, the New Hampshire Governor granted lands as far west as New York's present eastern border, giving rise to litigation which was to continue for many years. What is important to this study is the fact that during the periods of peace (1748-1754 and after 1761) he made extensive grants in all parts of his scattered province. So energetic was he in pushing settlement north and west that in the year 1761 alone he granted land for sixty townships in present-day Vermont and eighteen in New Hampshire. The news of free land to the north set into motion a flow of immigration from Massachusetts and Connecticut which sent the population of the province soaring and led to the creation of a hundred new towns.

Like his Anglican predecessor of sixty years before, Lieutenant Governor Cranfield, Wentworth was eager to improve the fortunes of the Church of England. Rev. Arthur Browne, the Episcopal rector in Portsmouth, wrote in a letter dated March 3, 1762, that eleven years previously the Governor had informed him that he was about to grant several large tracts of land, territory which was sure to increase in value over the years. According to Browne, it was Wentworth's opinion that if the Society

⁴⁶ *State Papers*, XXVII, 114.

for the Propagation of the Gospel in Foreign Parts (the Episcopalian missionary society) would apply to His Majesty, orders would be issued to the Governor to grant to that body such tracts of land in New Hampshire as it might find useful. Browne continued in his letter to the Society to state that Governor Wentworth had already granted it a proprietary interest in 108 towns and intended to do likewise in every one that he should hereafter grant, the interest in each town amounting to three hundred acres of land or more. In another letter four months later Browne informed the Society in London that the Governor had given the Church of England interests in twelve more towns, making a total of at least 120 by July of 1762.⁴⁷ What Browne was talking about was the clause which appeared in each one of the Wentworth grants:

. . . One whole Share for the Incorporated Society for the Propagation of the Gospel in Forreign Parts, one whole Share for the First Settled Minister of the Gospel in the said Town one Whole Share for a Glebe for the ministry of the Church of England as by law Established. . . .⁴⁸

During the 1750's similar grants were made right across the southern tier of the state, including towns such as Hinsdale, Keene, Marlow, Newport, Richmond, Swanzey, Unity, Walpole, Westmoreland, and Winchester.⁴⁹ All of these were granted prior to the outbreak of the French and Indian War and contained in addition to the grants to the Society for the Propagation of the Gospel in Foreign Parts, to the first settled minister, and for an Episcopalian glebe, a provision for an annual tax per acre of land for the building of a meeting house and for the settling of a gospel minister in each of these towns. Benning Wentworth was politically astute enough to realize that it would be impossible for him to go the limit for the weak Church of England and at the same time make no provision for what was more often the established order in the towns of the province. Indeed in prac-

⁴⁷ Batchelder, 152-54.

⁴⁸ *Provincial Papers*, XXV, 25.

⁴⁹ Prior to this time most of these towns plus many others had received grants from the province of Massachusetts. Sometimes Benning Wentworth tried to include the original grantees in the New Hampshire grant. This policy did not always suit either the Governor's or his Councilors' interests. These land squabbles, however, have little relevance for this study.

tically all of these towns, if not all, the first pastor settled was one of the Congregational faith.

While the grants of the 1760's followed this pattern in general, there were several interesting differences. In Holderness there was no share for the first settled minister of the gospel. Rather the charter read, "One Share for the First Settled Minister in Comunion with the Church of England."⁵⁰ Perhaps it was clearly evident even before the settlement that the first church of that town would be Episcopalian. Presumably the greater number of the grantees were of the Anglican faith. Most of the charters of the 1760's included a share to the Society for the Propagation of the Gospel in Foreign Parts, a share for the first settled minister of the town, a share for a Glebe for the Church of England, and a share for the benefit of the school in the town. This last share had not appeared in the earlier grants of the 1750's.⁵¹

One does not wonder that Browne was overjoyed at the prospects for the Church of England. Its possibilities appeared stronger at this point than at any previous time in New Hampshire's history, and probably stronger than at any time since. In spite of this largess the Episcopalians were not sufficiently strong to take advantage of their golden opportunity. Anglican churches appeared in Claremont, Cornish, and Holderness. These three, together with the Queen's Chapel in Portsmouth, were the only parishes of the Church of England in New Hampshire at the outbreak of the Revolution.

Land Grants and Religious Establishment

The effect of the Wentworth grants, together with those of the Mason proprietors, was to perpetuate a condition which was

⁵⁰ *Provincial Papers*, XXV, 132. The Holderness charter was dated 24 October 1761.

⁵¹ Among the towns receiving charters between 1761 and 1767 with the above-mentioned conditions were the following: Enfield, Conway, Columbia, Croydon, Chesterfield, Cornish, Bath, Dorchester, Cambridge, Campton, Charlestown, Claremont, Errol, Chatham, Eaton, Franconia, Grafton, Grantham, Groton, Hanover, Haverhill, Jefferson, Lancaster, Landaff, Lebanon, Lempster, Lincoln, Lisbon, Littleton, Lyman, Lyme, Marlow, Newport, Northumberland, Orford, Pierpont, Plainfield, Plymouth, Rumney, Sandwich, Stratford, Temple, Thornton, Wakefield, Warren, Wentworth, Woodstock.

characteristic of the original portion of the province. That was one of fostering town-supported churches, usually of a Congregational character. The records of both the Mason grants and those of Wentworth show that the settlers tried to meet the requirements of building meeting houses and settling ministers. The task, however, was no small one. Even where grants were greatly favored geographically and the migration that of a homogeneous church community, arranging the pastoral settlement was a rigorous undertaking. The town of Lebanon was settled originally by such a closely knit group—former residents of Lebanon, Connecticut. They held their first meeting of the newly incorporated town of Lebanon, New Hampshire, at the home of Amariah Storrs, an innkeeper, at Mansfield, Connecticut, in October, 1761. Part of the first business, even before their migration northward, was to select a committee to arrange for preaching of the gospel in or near their new town of Lebanon. At a later meeting, still in Connecticut, the new settlers voted a tax of four shillings on each landholder to make provision for preaching in Lebanon during the next summer. The record of the 1765 town meeting, their first held in the northern province, shows the importance of church affairs in the political arena:

A True Coppy of ye Votes Passed at a Town Meeting held at Lebanon on May ye 13th, 1765, at ye house of Mr. Asa Kilbourn After Chusing a Moderator.

Queried 2d Whether we will have a Minister this summer or Will Not. Voted in the Affirmative.

3d That We first Send Subscriptions to ye Neighboring Towns and Get What We Can Subscribed and what Remains Wanting to supply Ye Pulpit six Months, Will Stand Sponsable For to Be Paid at ye end of said Six Months.

4th . . .

5th Voted that the Selectmen take it upon them to Seek Quarters for ye Minister and Provide for His Accomodation.⁵²

Of the first five articles in the first warrant of the new town, three were directly concerned with church affairs, setting forth a program of obtaining religious services, paying for them, and pro-

⁵² John N. McClintock, "Early History of Lebanon from the MSS of the late C. C. Benton," *The Granite Monthly*, March-April, 1889, 117-25.

viding for the care of whatever preachers could be brought to the town.

Even with this auspicious start toward the establishment of a church, matters did not progress as quickly as one might have expected. Not until 1770 did the town agree to build a house for public worship and not until a year later did it agree upon the size, shape, and site of that meeting house. Finally in 1772 the town voted to give Mr. Potter, a Congregational pastor, a settlement of a hundred pounds to come to the town as its supported minister with "a salary of fifty pounds lawful money . . . as his stated salary" so long as he should continue in the gospel ministry in that town.⁵³

After eleven years, then, the people of Lebanon had finally fulfilled the religious conditions of a typical grant. This was accomplished under the most favorable of circumstances! The people were of a common accord. They were eager to establish a church. In fact, they had made it their first order of business. Their town was easily accessible; its population was growing rapidly and few obstacles appear to have stood in the way of the town fathers. Yet eleven years elapsed from the granting of the original charter in 1761 till the establishment of the first settled ministry in 1772.

As one looks at what happened in Lebanon, the conditions stipulated by the Mason proprietors seem harsh indeed for a less homogeneous group in more rugged surroundings. In most of the Mason grants there was the requirement that a convenient house for public worship be built within three, four, or five years. Even where as many as eight years were allowed, the grantees were forced to petition the proprietors, particularly after some investigator for the proprietary association had reported that there was no evidence of a meeting house within the limits of the grant. One such illustration is that of Leavitts Town (now Effingham). Jotham Rindge and William Blake, after a visitation to the isolated and sparsely settled hamlet in the eastern edge of the province, included in their report the succinct statement: ". . . there is no Meeting House for Public Worship."⁵⁴

⁵³ *Ibid.*, 126-28.

⁵⁴ *Provincial Papers*, XXVII, 251.

The worried and discouraged settlers, fearing that they would lose what they had so arduously created, immediately sent their excuses to the association for not having met the conditions of the grant, ending their plea with the following request:

We the Grantees therefore pray the Lenity of the Honorable Grantors toward the Grantees, as they are doing all within their power to promote the Settlement of said Town as fast as possible . . .⁵⁵

The investigators, recognizing the tremendous difficulties and the heavy expenses, proposed that one year longer be allowed the grantees to comply with the terms of the grant, at the expiration of which term the land of the deficient grantees should revert to the grantors. Nothing was said specifically about the group requirement of building a church. The tiny frontier settlement evidently did not have much more success during the next two years. In 1773 it again petitioned the association to send more settlers their way so that "they would be able to build a meeting house and carry on public worship on the Lord's Day and have a school of learning."⁵⁶

Cognizance of the endless difficulties of frontier life may explain why Governor Benning Wentworth in his later grants, those of the 1760's, no longer required that a meeting house be built and a pastor settled within a specified period. This does not mean that the towns, without these stated stipulations, did not attempt to settle the ministry. The people in the main were migrants from southern New Hampshire, Connecticut, and Massachusetts; and they traditionally accepted the idea of an established church. As soon as possible they tried to recreate in new surroundings the practices and traditions of the old.

Divisive Sectarianism

The Baptist Beginnings

During the middle of the eighteenth century a new evangelistic sect appeared in the province to contribute its share to the hubbub of church-state relations. In 1750 a small Baptist nucleus

⁵⁵ *Ibid.*, 253.

⁵⁶ *Ibid.*, 253ff.

attempted to organize a parish in Newton, and two years later called Elder Powers to be its pastor. Following the usual procedure, the congregation requested the town to release Baptist parishioners from paying the religious tax to support the established Congregational order in Newton. Their petition was refused. The fiery new sect did not take defeat easily. Tempestuous were the town meetings as the Baptists resisted the town's efforts to continue the unpopular church tax upon them. Some members obstinately refused to pay the ministerial rates and found themselves facing court action as the controlling element of the town filed legal charges. According to Knox,

The whole machinery of town and state government being in the hands of the standing order, they seem to have impeded greatly the incoming of other churches than the Congregational. This done, and it was plain that they could consider everybody in a town as coming under the provision of the law, all who did not conscientiously and constantly attend any particular sect or denomination, recognized by custom, courts, or juries, was surely taxable to maintain the settled minister.⁵⁷

The Newton struggle was a long-drawn-out affair. Suit followed suit. In 1767 the Baptist Church, still involved in its struggle for recognition, voted to pay the expenses of its members who were in the meshes of the law.⁵⁸ It was not as though the Baptists had not followed proper procedures. They had petitioned the town at its annual meeting to be exempted from the church tax. They had actively and continuously attended their own divine worship. Indeed they had had church services before the Congregational pastor was settled in the town. In spite of their pleas, based on the laws of the province, the Newton Baptists faced a stone wall. The town, instead of granting equality, sued for the unpaid taxes.⁵⁹

Two years later (1769) in a surprising action the town voted that the Baptists should be exempted from paying toward the support of the town's pastor (Congregational). Whether or not the meeting actually was fraudulent is difficult to determine; but

⁵⁷ M. V. D. Knox, "Intolerance in New Hampshire," *The Granite Monthly*, September-October, 1887, 328.

⁵⁸ William Hurlin, C. C. Sargent and W. W. Wakeman, *The Baptists in New Hampshire*, 7.

⁵⁹ *Provincial Papers*, XIII, 62ff.

it is clear that, upon a petition from the selectmen, the House of Representatives declared that the proceedings of this meeting were illegal and void. The rejoicing of the Baptist congregation was short-lived; they found themselves still laden with the burden of the town church tax. Evidently confusion begot confusion. Just one year later the town's difficulties were tossed to the provincial legislature. This time the Congregational leaders complained: "Town affairs were so confused that the town is put to difficulty to get a vote for raising the Charges of their Minister's Support."⁶⁰ Now the former majority, the Congregational, could not raise money to support its pastor. Faced with stalemate the non-Baptists offered to allow the Baptists to set up a separate parish. Now being the underdogs they humbly prayed that "the said Baptists may be set off entirely from said Town and have nothing to do with [it] . . ."⁶¹ Under these circumstances the Baptist Society obtained what it had been fighting for for two decades—freedom to support its own church without at the same time contributing to the maintenance of the Congregational order.

Presbyterian Difficulties

By the 1760's the Presbyterians were a fairly well accepted sect. In Hampton Falls and Pembroke, in different parts of the province, they continued to gain strength. While petitions of the Baptists were pushed aside, those of the Presbyterians were heard and acted upon. In June of 1763, agents of the parish of Pembroke requested the legislature to create an additional parish. In short order the legislature granted permission and within the year prepared a bill to divide the town into two parishes. Out of it the Presbyterians gained the power to raise money to support their own minister and were relieved from paying taxes to the Congregational parish. This is a far cry from the twenty years of agony which the Newton Baptists were currently undergoing. Yet even this apparent harmony was deceptive. The province had not heard the last of Pembroke's parish problems. Petitioners sought a decision as to who should

⁶⁰ *Ibid.*, 62-67.

⁶¹ *Ibid.*, 67-68.

pay what was due the Congregational preacher on his unpaid settlement of previous years.⁶²

The same issues raised slightly different problems in Goffstown. In 1771 that town's Presbyterians petitioned His Excellency, Governor John Wentworth, for permission to create their own parish. They pointed out that they generally inhabited one part of the town, this fact making a proper settlement an easy task. Following the usual investigation the request was dismissed on the grounds that there would not be a strong enough group in either parish to carry out church responsibilities. Furthermore, the old church would be too weakened by the separation for it to sustain existence. As the official record puts it—

Upon hearing said petition & hearing said Parties and it appearing to the House there was not a number sufficient to be incorporated into a Parish, & that by incorporating them it would weaken the hands of the Party not petitioning . . .⁶³

Thus, for the time being, Goffstown's Presbyterians found themselves tied to a disliked establishment.

Even where there was relative willingness to have several religious units within a community, church-state relations still offered their difficulties. In 1765 Hampton Falls' Presbyterians petitioned first to be exempted from paying taxes to support the Reverend Mr. Wingate, the Congregational pastor, and second to have liberty to establish their own parish. After the usual delays, entailed by petition, counter-petition, and investigation, the House granted the original petition and the Presbyterians withdrew from Hampton Falls and organized the parish of Seabrook. They had hardly consummated this arrangement before the Quakers in town requested permission to be "polled off themselves and their estates from both Hampton Falls and from Seabrook." The act of incorporation of June 3, 1768, allowed the Quakers to be exempted from paying taxes, either to the Congregational Church or to the Presbyterian.⁶⁴

One would suppose that these arrangements were perfectly

⁶² *Ibid.*, VII, 115ff.

⁶³ *Ibid.*, 304; *ibid.*, XII, 28ff.

⁶⁴ *Provincial Papers*, VII, 95, 107, 110, 142, 158, 163.

clear and that both justice and religious liberty had been attained in the area. There were, however, other involvements. The Presbyterian Society, while still a part of Hampton Falls, had made certain commitments to a Reverend Mr. Pearley for his support. All of this had been done before the Society had legal authority to do so. Evidently some of the signers of the original petitions to the House of Representatives had expressed their willingness to pay the cost of settling Pearley. Later realizing that they were not legally bound to help pay for his keep, perhaps realizing too that they were still liable for Wingate's support, they reneged upon their verbal agreement to the other members of the Presbyterian Society. The collectors for the Society, in the meantime, had given their security and had borrowed funds to arrange for Pearley's coming to town. Eventually they faced suit for their indebtedness and appealed to the provincial government for redress. Happily their case was clear and the House, with the consent of Governor and Council, empowered them to collect what was their due.⁶⁵

There were still other difficult aspects of the Hampton Falls-Seabrook church-state relations. As late as 1791 the division of the two parishes was still plaguing the General Court of the state. As part of the original arrangements, Congregationalists within Seabrook were allowed to "poll off" and pay taxes to Hampton Falls for the support of the ministry there.⁶⁶ A like arrangement existed for the Presbyterians in Hampton Falls. The question arose, Where would these same individuals pay their road taxes and their other town claims? Should a Congregationalist, worshipping in Hampton Falls, living in Seabrook, work on the road in Seabrook or Hampton Falls? Certain sharp individuals somehow managed to work for neither town. Nonplussed, a committee from Hampton Falls petitioned the General Court for an act which would require those living in Hampton Falls to pay their proportion of taxes for roads within that town, regardless of the parish within which the taxpayers worshipped. This logical solution finally was reached, twenty-seven years after

to which his taxes should be paid.

⁶⁵ *Ibid.*, 243; *ibid.*, XIII, 421.

⁶⁶ To "poll off" meant to register with the town clerk as to one's church affiliation,

the original petition to divide the two towns had been submitted to the legislature.⁶⁷

In a province where so much authority was bestowed upon the individual towns, many of the issues in the newer centers repeated the struggles of the older. What was happening in Orford (1771) had taken place a half-century before in Portsmouth. William Simpson, for himself and others, asked to be relieved of the two-pence-per-acre tax because of his adherence to the Church of England. He asserted that "it would be illiberal and cruel to tax their lands and Estates against there [sic] Consent, to maintain and support the Ministers of other Professions while they maintain and support their own."⁶⁸ Two months later, having had the request before it for the whole of one year, the House ordered it tabled for later consideration. There is no evidence that the House took any action upon Simpson's bill during the remainder of that session. The fact that difficulties with the English government were becoming more insistent may be sufficient reason why another plea for religious equality failed to get a hearing.

While one must be careful in the making of judgments, it appears that much more speedy action came when the shoe was on the other foot. In Barrington the Congregationalists found that they could not obtain a majority. Nor could any other sect. Such a state of stalemate in 1770 led John Garland to take his case to the legislature: ". . . some Quakers, some who were separatists from all Denominations of Christians, and some members of the Church of England besides the Common Denomination called Congregationalists were in the town." There being no settled pastor, Garland asserted, lay teachers had entered the town to encourage separation, division, and disunion to such an extent that whenever there was a town meeting to consider the settling of a preacher, all attended and sometimes outvoted the Congregationalists, to "introduce the greatest disorder & Confusion." He, Garland, was therefore seeking permission to constitute a parish of Congregationalists which would be binding only upon those who would join with them as

⁶⁷ *Provincial Papers*, XII, 150-51.

⁶⁸ *Ibid.*, VII, 312ff.

members of the parish or society. Within two weeks the House of Representatives had granted the petition, it had been presented to town meeting, and authority had been granted for the Congregationalists to create their own parish. The power of government behind a cause can be an extremely effective force! What is not clear in all this is what happened to those who did not join the Congregational parish. According to law all were expected to pay toward the support of religion. One was freed on the premise that he would support a church establishment nearer to his own way of thinking. One surmises that the citizens of Barrington avoided raising this question.⁶⁹

Summary—The Eve of the American Revolution

Religious matters during the 1770's, years of developing revolt against Britain, tended to be relegated to a secondary position by most New Hampshiremen. One gets the impression that there was little change in the relations between church and state, unless it were that the ability to establish churches in outlying communities was somewhat weaker. Congregationalism still remained the strongest single religious force in the state. Congregational churches and pastors were supported in most of the older, long-established towns, and many believed that the Puritan church should be the supported order. Nevertheless it would be incorrect to say that New Hampshire by provincial law had a single established religion. The following conclusions are presented to show in more specific detail church-state relations during the period of New Hampshire's transformation from an English province to an American state:

1. In addition to the Congregational, other religious establishments existed in the province. Quakers, Episcopalians, Presbyterians, and a few Baptists had all received more or less recognition in one or more towns—often with a great deal of reluctance and struggle, but real recognition nonetheless. To a surprising extent Presbyterians had been allowed to organize parishes and use town authority to collect taxes, to control the use of meeting houses, and to settle pastors. According to the law any church group which could gain majority recognition at

⁶⁹ *Ibid.*, IX, 48-49, 650-51.

the polls could create an established church in that town (Protestant, of course). In Holderness, for example, at the end of the Revolution the Episcopalians were the legal establishment. Some communities had a dual establishment—Londonderry (Congregational and Presbyterian), Portsmouth (Congregational and Episcopalian)—while in most towns the Congregational church still remained the single church supported by public funds.

Because of the scattered nature of the settlements and because of the tremendous power vested in local government, it is impossible to conclude that New Hampshire had a single established church, that New Hampshire had a multiple establishment, or that there was any legal establishment at all. In some of the northern towns the voters often had no preaching, because they could not agree upon a single tax-supported church.

It would be inaccurate to conclude either that there was free exercise of religion or that there was no free exercise of religion. Too much depended upon the whims of freemen at town meetings. Too much depended upon what voters thought of those who desired to dissent. One can find in some towns a pattern of church-state relations to substantiate almost any form he might approve. There were some towns in which there was a single establishment with free exercise for some dissenters and not for others. There were some towns in which there was a multiple establishment with free exercise for dissenters. There were some towns in which there was a multiple establishment without free exercise for dissenters. There were some towns in which there was a single establishment other than the predominant one, the Congregational. There were, particularly in the newer settlements, some attempts to establish religion which met with failure because of the difficulty of getting preaching or difficulty in getting the citizenry to support a pastor. There were, in some of the newer towns, no attempts to establish religion at all. The settlers were having too much difficulty in eking out a bare existence for their families to support willingly any ministry. There were those towns too where the religious sentiment was so divided that it was impossible to settle upon any single church or even upon two of them, and wealth was so lacking that it was impossible to support more than a single church. It should be added also that neither the Governor and Council nor the

legislature took leadership in this period in trying to enforce the law that there should be religious establishments in the local communities.

2. A basic premise still remained: New Hampshire believed in the principle of an established church supported by public taxation. The law of 1714 was still the law of the land. The people believed that government had been and ought to be built upon religious foundations. The town charters granted through the century, even to the dawn of the Revolution, contained the concept of the established town church with its supported ministry. As long as a single sect dominated the province, or, in reality, the separate towns, there was little questioning of the idea of the soundness of established religion. The accepted tradition, brought from the Old World, was the standing order of the New. In spite of the repeated assertions of freedom of conscience, appearing in each Governor's royal commission, there was actually very little of it in the existing scene.⁷⁰

3. The political power of the province was used to support religious establishment. After the Massachusetts rule had been eliminated in 1679, the provincial authorities attempted to support both the concept of religious establishment and that of free exercise. Naturally, where one religion dominated as much as did the Congregational, the attaining of free exercise had to be the result of many years of struggle and litigation, and the burden of proof was upon those who desired to separate from the dominant church.

4. Citizens were expected to support religion. When new parishes were created and laws passed to free certain groups from supporting orthodoxy, they were freed on the condition that they would support a particular church. All others were expected to continue their support of the standing order. Further, if newcomers to a town, having been allowed a short interval, did not specify any other religious allegiance, they were placed

⁷⁰ See Appendix A, section 2. The instructions to Benning Wentworth are included to show what the royal government expected of a colonial Governor. This specific set was issued upon the accession of George III to the throne of England. As with previous instructions this began with the admonition that the Governor should permit liberty of conscience. Following that it provided for the holding of services according to the rites of the Church of England, the maintaining of churches and the support of the ministry, plus various other elements which might accompany the concept of the establishment of religion.

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upon the town's rolls for the support of the town's official church. The assumption was that if one were not definitely listed for an existing dissenter group one should support the town's church.

5. The province for a hundred years and more had been declaring itself for freedom of conscience. Each new Governor as he received his commission from His Majesty swore to support "freedom of conscience for all citizens." Although this freedom was actually more fancied than real, the existence of this clause was often the opening wedge for the dissenter. Several colonial Governors, particularly Belcher, made decisions in the direction of the stated freedom of conscience and helped the colony toward that diversification in religion which was to make freedom of conscience more of a reality in the next century. To keep the record clear, "freedom of conscience" in the eighteenth century, like "loyalty" in the twentieth, too often had an extremely narrow and straitlaced orthodox interpretation.

6. Sectarianism had gained ground. The Anglican Church had returned to the colony, and although it was to suffer during the Revolution it was to remain and grow. The Quakers, still hounded in legislature and court (military service was just as much a problem in 1776 as it was in the 1940's), quietly and steadfastly persisted in living and worshipping their own way and gradually secured provincial acceptance of that way. The religious revivals added two vital and vigorous Protestant sects, the Presbyterian and the Baptist, each often going through torment and torture to gain acceptance, each gradually developing strength as the century moved into its last quarter. In addition sectarianism gained an unexpected ally as Congregationalism split into "New Lights" and "Old Lights."

7. New Hampshire did not believe in religious equality. Congregationalists tended to be favored both in the towns and in the provincial legislature. This whole chapter amply illustrates this fact. Minority groups, while they were able to gain recognition, did not gain equality before the law. Puritan and Anglican were expressly favored in the charters of the century. After 1690 Papists were expressly denied equality; worse, they were denied a place in provincial society at all. Minority sects actually did not gain free exercise—let alone equality—until they were strong

enough to "throw their weight around," first in separate small towns, then collectively in the colonial and state legislature.

8. Colonial laws gradually became less stringent insofar as they demanded the immediate establishment of church and pastor in newly settled towns. The early grants, particularly those of Massachusetts, provided that pastors be settled and meeting houses built within a few years. By the time of the Revolution the precise provisions demanding such immediate settlement had disappeared from the grants of both Benning Wentworth and his successor, John Wentworth.⁷¹ More, even though towns were eager to make religious settlements, poverty, distance from larger centers, the shortage of ministers, and sectarianism raised their serpentine heads to forestall either a single or a multiple establishment.

9. The broadening of the religious base followed a consistent pattern. There was always, first, the refusal to support the established ministry, second, extensive petitioning and litigation, and third, grudging acceptance of a new sect, either by relief from paying the pulpit tax or by the creation of a parish with a specified dissenter membership roll. Because of town rule this pattern, with variations, was repeated over and over again, even into the nineteenth century. No sect escaped its trials and tribulations on the road to free exercise. Intolerance even backfired upon Congregationalism when that sect lost its majority in a town. No dissenting sect, even when it had achieved the right to worship as it pleased, could be sure that the battle had been finally won. There was always another town meeting where the struggle could again be renewed.

10. Last and most important, New Hampshire had no official church. This fact made it easier for change to come; it meant too that change would take place gradually as the separate towns experimented toward a way which would become an accepted pattern for the whole of the state. This part of New Hampshire's history is the subject for the next chapter.

⁷¹ There is little if anything in the record to show that either Benning Wentworth or his nephew, John, opposed any of the religious groups. Both were eager to get the land settled. In this way their grants to themselves and to their friends (and these grants appeared in all the charters) could become valuable. While they favored the Church of England in their grants, they did nothing to impede the settlement of any other religious sect.

III

The Revolutionary Era— Movement toward Toleration

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THE AMERICAN REVOLUTION, unlike the French Revolution which tore much of organized society to shreds, allowed much of the social and political life of New Hampshire to continue with little change or interruption. A fundamental reason is that the basic political organization of the state was the town. Neither the town nor its leadership was radically affected by the violent political change which was being shaped in the larger national sphere. There was, therefore, no particular change so far as control was concerned in church-state relations from 1775 to 1783.

The New Hampshire Churches in the Revolution

It has been estimated that at the outbreak of the Revolution, eighty-four of New Hampshire's 118 churches were Congregational. According to Upton there were fifteen Presbyterian units, eleven Baptist, four Quaker, and three Episcopalian.¹ Generally the Congregational clergy and their parishioners supported the Revolution. Several reasons are clear. Their religious organization, ideologically, was one of political democracy. Emotionally they had long distrusted their colonial Governors. It was their belief that the Portsmouth hierarchy, the Wentworth clan, was interested in foisting the Church of England upon the state. For evidence they pointed to the hundred or more charters that Ben-

¹ Richard F. Upton, *Revolutionary New Hampshire*, 60ff.

ning Wentworth and his nephew, John, had granted. Was it not obvious that the Episcopalian church was favored over all others?

In general the Presbyterians stood with the Congregationalists. In most respects as to creed they differed little. In some towns the two sects had united. Indicative of their sentiment toward the Revolution was this ruling of the Presbyterian clergy at Londonderry in 1776: ". . . any suspected to be inimical to the liberties of the independent states of America . . . and who refuses to declare his allegiance to the same" should not have "a seat in this judicature."²

The smaller dissenter faiths—the Baptists, Quakers, and Methodists—were probably too scattered in 1776 to have much effect. The Baptist ministry itself was sharply divided. Of the five ministers then settled in the state, three appear to have favored the revolutionary cause, while two were opposed to it. This divided stand expressed the mixed feelings of many individual Baptists. They were lukewarm to the Revolution and to the Congregational leadership thereof because they saw a threat to their weak church in its battle for equality before the law. The status quo appeared to offer a lesser danger. A free state without the Episcopalian leanings of the royal governors could conceivably lose some of the checks and balances which fostered what little tolerance there was. To the Baptists a stronger intrenchment of a Congregational leadership might lead to vigorous political action to strengthen the Puritan cause, perhaps even to the extent of establishing Puritanism as the legal order of the state.

The Quakers, as one might expect, attempted to steer clear of the tumult of the war. Their strong views against war and its violence caused them to petition again and again for relief from participating in the fighting, thus making them targets of much abuse. The Methodists and the Universalists were just beginning to appear in New Hampshire. In view of their small number and influence in the state there is little point in appraising their stands toward the Revolution.

² *Ibid.*, 2.

The Church of England, on the other hand, was immediately suspect. Its clergy generally supported the mother country, and because of this loyalty Episcopalians suffered at the hands of the rebellious colonists. Many of the strongest supporters of the church were forced to flee. In Portsmouth, for example, many of the leaders, both of church and state, soon took to the sea and disappeared forever from New Hampshire politics. In the western part of the state, Rev. Ranna Cossit became extremely unpopular because of his steadfast loyalty to his king and to his church.³ Lest one draw too extreme conclusions from the evidence so far presented, it should be mentioned that Samuel Livermore of Holderness, an active leader of the Church of England, was one of the staunchest of the Revolutionary leaders.⁴

This mixed picture made it impossible for the mass of people to point to one church as royalist and to another as revolutionary. Factors other than religion tended to be more important in determining the side to which one adhered. At the same time the war had strong effects upon the relations of church and state. The turbulent years had led to neglect in establishing churches and in the settling of ministers in many communities. Some pastors had gone to war, leaving their parishioners destitute of clerical leadership. Ministers were not numerous. Moreover, many towns did not have the financial means either to settle pastors or to build churches. As far as the legislature was concerned, it had its hands full with the raising and feeding of troops. There was no time to worry about the maintenance of a religious order.

Under these conditions the northern settlements, unlike the towns in the southern part of the state, did not make the establishment of churches their first order of business. Town after town found it either inexpedient or impossible to settle a permanent pastor. The histories of Littleton and Lancaster show that these towns were able to have only itinerant preaching, for a few weeks during the summer months.⁵

³ Calvin R. Batchelder, *A History of the Eastern Diocese*, I, 182.

⁴ *Ibid.*, 262ff.

⁵ James R. Jackson, *History of Littleton, N. H.*, II, 201-06; A. N. Somers, *History of Lancaster, N. H.*, 44.

Attitudes toward Religious Establishment and Support

With the end of the war came a religious revival and with it a large increase in the number of the denominations in New Hampshire. The Free-Will Baptists appeared in 1780, the Universalists in 1781, the Shakers in the 1790's, and the Christians in 1800. The appearance of each new group meant one more force in the struggle against the idea of religious establishment and governmental financial support of a single sect. The illustrations which follow show clearly the wide variation in the practice and thinking within the state.

Variety in Town Practice

Plymouth, largely established by a Congregational migration from Hollis, New Hampshire, in 1764, soon found itself facing internal dissension. In 1777 and in the following two years several taxpayers entered their opposition to the vote to raise money by town tax for the support of Rev. Nathan Ward. Finally in 1780 they refused to pay the assessment; and the tax collector subsequently took legal action against them. One of the Baptist dissenters, Abel Webster, petitioned the legislature, then meeting in Exeter. There he was mollified and forestalled by Plymouth's representative, Francis Worcester, who advised a more conciliatory approach. Upon being promised a hearing at home, Webster withdrew his petition. The Baptists, upon agreeing to pay the 1780 taxes, were excused from paying future church rates. Three years later fifteen persons were said to have been excused from paying the ministerial rate.⁶

Goffstown renewed a struggle which appeared to have been settled prior to the war. The Presbyterians and Congregationalists again were at odds over which church should be the established order. As had happened so many times before, the General Court created two parishes, each having the legal power to tax for the ministry. It should be pointed out that the Congre-

⁶ E. S. Stearns, *History of Plymouth, New Hampshire*, 216-19, 383. The town of Hillsborough had a like experience about 1790.

gational sect was still given a superior status, a fact which can be noted in the following:

And be it further Enacted, that all persons who shall come to live and settle in said Town hereafter, and all Minors who are or shall be Inhabitants there, who shall desire to belong to the said Presbyterian Society, shall within six months after their coming to live in said Town or attaining to the age of Twenty one Years respectively, enter their names and such desire with the Clerk of the Presbyterian Society, and shall also produce to the Town Clerk a Certificate thereof, and enter the same with him, And that all who shall do so, shall be deemed and taken to belong to the said Presbyterian Society, and shall be rated to the ministerial charges of that Society only—And that such as do not enter their names and desire as aforesaid shall be deemed to belong to the said Congregational Society, and shall be there rated to all ministerial Charges accordingly.⁷

The war had not caused any radical shift. While the legislature recognized that the Presbyterians should have their establishment, it also—perhaps unwittingly—confirmed the strong Congregational bias of the times. The act, like so many others before it, accepted the premise that all who did not register their views in other directions should be considered supporters of the Congregational order.

Not far away from Goffstown, however, a contrary conclusion resulted. The Baptist strength at Hampstead was such that each time an article for support of orthodoxy appeared in the warrant the people rejected it. Kelly asserts that such articles were defeated because the town's warrants did not also include articles exempting those who preferred not to pay the ministerial tax at all. By 1789, "the people were so discouraged that they could not get a vote to raise one cent to hire preaching."⁸ Town control in New Hampshire persisted in promoting diversity.

Town support disappeared even earlier at East Northwood. Again the Baptists were in the forefront of those who sought to break down the establishment. Moses puts it thus:

Minister taxes were dropped during the Revolution, and it was hard getting them started after its close. Only eleven were excused

⁷ *Laws of New Hampshire*, IV, 368–70.

⁸ John Kelly, "Historical Sketch of the Town of Hampstead," *Collections of the New Hampshire Historical Society*, V, 182ff.

from the town minister tax before the Revolution, namely Moses Godfrey These were our pioneer Baptists. In 1800 eighty-six people were exempt from minister taxes, including every man at the Mountain and all but eight in East Northwood, while those who had minister taxes [in Northwood] numbered only eighty-nine.⁹

Cornish in the west faced a similar situation, with an even more remarkable result. At town meeting, 1783, the town voted "That from and after the 29th of Sept next no person Shall be held or bound by Civil Contract, to pay any taxes for the support of the Gospel, unless he Shall previously Consent thereto."¹⁰

What happened at Hollis demonstrates that the Cornish action was far from being an accepted pattern. Edward Spalding had an article inserted in the warrant for the 1785 town meeting: "To see if it were the mind of the people to exempt his estate from ministerial tax, for the reason that he belonged to the Baptist denomination."¹¹ Evidently the Baptists were not strong enough, for the people sharply ruled "that the estate of Edward Spalding shall not be freed from the minister's tax for the time past, present, or to come."¹²

During the same year, though, Cornish's neighbor, Claremont, voted "That those people who call themselves Baptists pay no more rates to the Congregational order for the Fewter [future]."¹³ The Baptists were rapidly rising and gaining strength in all parts of the state. But orthodoxy still fought back in rearguard attacks. In Sanbornton, situated in the central part of the state, the citizens turned down a Baptist petition to build a meeting house at a central spot in town near the main road. The town's historian states that this vote precipitated a controversy which was to last almost to the days of the Toleration Act.¹⁴

Farther to the north, in the infant settlements, there is more

⁹ J. M. Moses, "Early Settlers of East Northwood," *Granite Monthly*, February-March, 1917, 37-42.

¹⁰ *Provincial and State Papers*, XI, 456.

¹¹ Samuel T. Worcester, *History of the Town of Hollis*, 56.

¹² *Ibid.*

¹³ Otis F. R. Waite, *History of the Town of Claremont, New Hampshire*, 85.

¹⁴ M. T. Runnels, *History of Sanbornton, New Hampshire*, 70.

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of the same inconsistency of action. The citizens of Littleton voted funds to hire preaching for several summers, but were unable to settle a pastor. Jackson states that "the increase in population was made up largely of persons who were not disposed to burden themselves unnecessarily with taxes for the maintenance of public religious worship,"¹⁵ and the town contributed little or nothing toward an established ministry. At Lancaster during the same period they called a pastor, Rev. Joseph Willard, and supported him (more or less) until his retirement in 1836. Approval of this support was far from unanimous. Methodists and Baptists, both active in Lancaster, were in agreement that they should not support Willard. Following the practices in existence in other towns they gave notice to the town clerk that they belonged to other churches. An illustration of such action is the following notice served upon the town clerk in 1802:

Gentlemen, Selectmen of Lancaster.

This may certify that the following named persons have given their names to the Baptist society in Jefferson and belong to the same¹⁶

Perhaps more significant, as indicative of thinking in many other parts of the state, was the action taken by Levi Stebbins and others in 1817. They gave notice that they would no longer pay minister's tax, "as they had not considered themselves as members of the First Church."¹⁷ Somers states that the Lancaster selectmen heeded these petitioners and that there was no evidence that they were taxed thereafter. In this town at least the Toleration Act was simply a confirmation of existing practice. But not the whole of the White Mountain area was moving toward self-determination. As late as 1810 Colebrook, almost at the Canadian border, was in the process of settling a town ministry, Congregational in nature, in the traditional manner.¹⁸

In spite of the Colebrooks here and there, newer trends were making themselves apparent, even to the disciples of orthodoxy.

¹⁵ J. R. Jackson, 223ff.

¹⁶ A. N. Somers, 175-82.

¹⁷ *Ibid.*, 181.

¹⁸ Robert F. Lawrence, *The New Hampshire Churches*, 602.

Lawrence quotes from the autobiography of David Sutherland, preacher of Bath (1805–1835):

I gave directions to the collectors to take nothing on my account from those who were unable or unwilling to pay a tax, and in some cases I actually refunded to those who paid grudgingly and this left a large margin for the cancelling process at my settlement with the collectors. indeed, were it not for the generosity of kind friends in town and out of town, I must have sunk into bankruptcy.¹⁹

In many towns, old and new, the Congregational church found that it could no longer control the use of the meeting house. In Littleton the town granted a reasonable amount of religious equality by its act of 1811, in which it granted to each religious denomination the right to use the meeting house in proportion to the money which each paid for the use and repair of the building, each denomination having the right to put whatever pastor it desired in the pulpit. Further, the citizens were given the right to choose whatever denominations they desired. The real trend, apparent both to the orthodox and to the dissenter, was that equality for Protestants was on the horizon. Real separation of church and state had hardly been considered.

Trend Away from Support of Single Orthodoxy

During the early years of the nineteenth century, as can be surmised from the foregoing, the Baptists and the Methodists were gradually gaining strength. Rare were the towns which were not annually upset by the controversial and protracted discussions at town meetings over the place of the church in town society and the manner in which organized Protestant religion should be supported by the towns' taxes. Rev. Winthrop Fifield, reporting on South New Market for Lawrence's *The New Hampshire Churches*, revealed how great the change was:

. . . during more than ten or fifteen years from 1808 the tables were turned, and the Methodists became the standing order. The town employed their preachers—voted them the use of their parsonage, the meeting house and more or less salary year by year. And they lived on the Congregational parsonage, occupied their Meeting house and used their church services for some twenty years. It is a wonder that

¹⁹ *Ibid.*, 613.

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Congregationalism under such circumstances had not become entirely extinct.²⁰

There was little doubt in this good pastor's mind as to what the proper ownership was. He illustrates too well the nature of much of the thinking concerning a proper relationship between church and state. Anything except the traditional established orthodoxy appeared to his mind to be a denial of propriety and justice.

The movement away from the Congregational establishment, indeed from any establishment, was snowballing rapidly. In Boscawen, "many refused to pay their taxes for the support of the gospel. . . . The church was greatly afflicted with trying cases of discipline. . . . The number refusing to support the ministry increased."²¹ In 1802, "the contract was dissolved—the town, as such, ceased to support the ministry of the gospel."²² Winchester's last supported pastor had to give up his charge in 1810. Too many citizens were petitioning to have their ministerial tax abated for the town to be willing to support its Reverend Porter. After his retirement each religious society was forced to go its own way, each getting the use of the meeting house in proportion to its share of the church membership of the town.²³

Gilmanton went through a like revolution. Proposals appeared at town meetings to have the ministerial tax collected separate from other taxes. Then articles were presented for a division of the ministerial lands. Finally in 1810 the town failed to pass the article which would have provided for the ministerial tax. Baptists previously had been allowed to support their own church. Undoubtedly they with other dissenters provided a sufficient majority to eliminate the established order. Loudon, a neighbor of Gilmanton, went through a similar transition. Tax collecting became difficult; ministerial salaries got more and more into arrears. In 1810, as part of the promise to pay up arrearages of its pastor's salary, the town support was dissolved and the

²⁰ *Ibid.*, 137.

²¹ *Ibid.*, 348.

²² *Ibid.*, 349.

²³ *Ibid.*, 311–13.

pulpit became vacant. After this dismissal of the Reverend Tucker, no money was raised by the town for the support of the gospel.²⁴ In 1811, Hopkinton passed over the article to determine what method the town would take to raise money for the support of the Congregational pastor.²⁵ In Hillsborough, support of the established order just faded away because the number claiming exemption was so great. In 1816, out of 373 persons assessed for taxes, 153—almost one half—were exempted from the payment of the minister's rate.²⁶ This was the last year the town included an article for the support of the minister in the town warrant. This town, perhaps unwittingly, stumbled into the concept of separating church and state.

Even Lebanon, settled by sturdy God-fearing Congregationalists from Connecticut who had been so careful to provide for preaching at their first town meeting, began to fall by the wayside. Downs, in his history of the town, bemoaned the fact that the people were no longer of the same sentiments and beliefs, that those who dissented were beginning to think it a hardship to be taxed for the support of a form of worship with which they did not sympathize, and "to rebel against the building of a meeting house where they never met and for preaching which they never heard."²⁷ Uniformity had given way to Protestant secretarianism; and Lebanon, like its neighbors to the north and south, found that the old way could no longer be followed.

These are but a few of the illustrations, taken from widely separated towns from all sections of the state. They serve to demonstrate the pressure against the union of church and state. A careful search into other town records will reveal as wide a variety of practice. The old order was slowly but certainly changing; rumblings were being heard in the General Court; and the showdown battle soon moved into that larger arena. There were those who believed that it was time for the state legislature to recognize what had been happening and to hurry the pace a little in those towns where the inevitable was being denied. There

²⁴ *Ibid.*, 491 (Gilmanton), 395 (Loudon).

²⁵ C. C. Lord, "Manners and Customs in Hopkinton," *The Granite Monthly*, April, 1879, 217-24.

²⁶ George W. Browne, *History of Hillsborough, New Hampshire, 1735-1921*, 217.

²⁷ Charles A. Downs, *History of Lebanon, New Hampshire, 1761-1887*, 243.

were others who were appealing to the legislature to safeguard one of the most sacred of the state's early traditions.

In the face of the variety of practice in the several towns, one may wonder at the constitutional arrangement which allowed this diversity in opinion and thought. Was it that neither the Constitution nor the legislature had dealt with the problem of church-state relations? The contrary is true! As in the colonial grants and charters, the Constitution guaranteed freedom of conscience and proceeded to present the usual Protestant biases. (These will be considered in Chapter IV.) The legislature, true to the long tradition of town control, had in 1791 passed the following act "for Regulating Towns and the Choice of Town Officers:"

And be it further enacted that the inhabitants of each town in this state qualified to vote as aforesaid at any meeting duly and legally warned and holden in such town may agreeably to the Constitution grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance, and support of the ministry, schools, meeting houses, school houses, the maintenance of the poor, for laying out and repairing Highways, for building and repairing bridges and for all the necessary charges arising within the said Town to be assessed on the polls and estates in the same town as the Law directs—²⁸

Like the colonial legislation of 1693 and 1714 this act gave to the towns the power to maintain and support a ministry and the meeting houses for religious worship. Under the act the towns could call ministers, tax for their support, erect meeting houses, and do all the other things which a town might deem necessary for the "maintenance and support of the ministry." While this act did not expressly provide for any orthodoxy, it was the means for maintaining the traditional form of worship.

Legislative Support of the Concept of Establishment

During the years between 1790 and 1820 the General Court was often called upon to incorporate and legalize the several religious societies. It was an easy matter for a town to refuse to allow an individual relief from the church tax on the ground that the state did not recognize the particular sect to which he

²⁸ *Laws of New Hampshire*, V, 592. This act was passed Feb. 8, 1791.

said he belonged. As is often true the larger body politic was often more liberal in its thinking than the smaller, more provincial community. Baptist societies, Episcopalian, Methodist, and Universalist gradually received their due recognition as legal entities and their societies were incorporated by the legislature of the state. The following act of 1794 is merely one of several:

Whereas Jonathan Robinson and others, Inhabitants of said Deerfield have petitioned the General Court representing, that they are and for years past have been a society for promoting the public worship of God, commonly known by the name of Baptist Society—That they have with cheerfulness contributed to support the Gospel—That they have labored under many inconveniences on account of their having no authority, by Law, to compell people to pay their Just proportion of the monies which the said Society have yearly raised for the purpose aforesaid—and prayed the General Court to Incorporate them, and others who may choose to Join, into a Society and give them power and authority by Law, to assess the members of said Society their Proportion of all such monies as may be necessary to discharge the debts which may be incurred by the members thereof, in their public capacity—after a public hearing thereon it appearing reasonable that said Society should be incorporated as aforesaid—Therefore, Be it Enacted by the Senate and House of Representatives in General Court convened, that the said Jonathan Robinson, [and others] are incorporated into a body politic and corporate to have continuance and succession forever by the name of the Deerfield Baptist Society.²⁹

These newly created societies, Baptist, Methodist, and so forth, then legally had the same privileges as did the Congregational societies in being allotted their shares of taxes, provided that the members of the societies could get the separate towns to vote them the privilege of taxing their own membership.

The Courts and the Support of Orthodoxy

Public law was narrowly interpreted not only by many of the towns and their selectmen; the state jurists were also just as often similarly biased. A celebrated case, that of Christopher Erskine, Universalist of Claremont, bears this out. In 1796 Erskine presented the following certificate to his selectmen, supposing that he would thereby be relieved from the payment of any future ministerial rate:

²⁹ *Laws of New Hampshire*, VI, 194. This act was approved by the General Court, June 20, 1794.

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This may certify that Christopher Erskine belongs to the Universalist Society and contributes to that order.

William Farwell, Elder

Recorded Feb. 23, 1796.³⁰

In spite of this clearly worded certificate the selectmen assessed Erskine \$4.49 for the Congregational Society, his share of the minister's support. Not having paid this tax, he was arrested and compelled to pay. He sued the town but had his plea rejected by the justice of the peace. Upon appeal to the Court of Common Pleas, this time before a jury, he was upheld. The selectmen then took the case to the Supreme Court, where the previous decision was reversed on the following grounds stated by Chief Justice Simeon Alcott:

I certify that it has been settled by the Supreme Court, that persons called Universalists are not such a sect, persuasion or denomination, as by the Constitution of New Hampshire are exempt from the payment of taxes for the support of a regularly settled minister of a Congregational Society in the town where such person lives. And I think that in establishing this practice the court were unanimous.

April ye 3d, 1801.³¹

One wonders what omniscience existed among the members of the Supreme Court to help them determine what a religious sect was. Did this sect violate commonly accepted concepts as to what was religion? Was the Chief Justice stating that the Universalists were not a sect in the eyes of the law? Or was this merely a sect which had not been properly incorporated in the town of Claremont? As a matter of fact the Universalists were, before 1824 at least, able to organize only one society, that in the city of Portsmouth in the year 1793.³²

That the jurists were not consistent in their thinking can be quickly demonstrated by the Muzzy case. John Muzzy, believing that he had been illegally assessed seventy-five cents to support the Congregational church, refused to pay his tax. The local court fined him \$100 and imprisoned him for four days. The basic question before the Supreme Court appeared to be whether or not Presbyterians and Congregationalists were different sects

³⁰ Waite, 85.

³¹ 1 *New Hampshire Reports*, 36-37.

³² *Laws of New Hampshire*, VI, 105 (June 18, 1793).

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before the law. If they were of different sects, could a Presbyterian be taxed for the support of a Congregational minister? In the eyes of Chief Justice Jeremiah Smith certain facts were clear:

It was admitted that the plaintiff was a Presbyterian; and the only question referred to the decision of the court is whether Presbyterians are, within the meaning of our Constitution, of another or different persuasion, sect, or denomination, from Congregationalists.³³

In his summation to the parties concerned, the chief justice presented his interpretation of the Constitution:

The Constitution secures the citizens of this State against persecution on account of their religious opinions and worship. It provides that religious opinions shall in no case form any ground of civil distinction, declaring that all men are equal in the sight of the law, and equally eligible to civil honors and offices.

It provides for public instruction in religion and morality, because they promote the good of society; and declares that it can only be maintained by authorizing towns . . . to support and maintain it.

It exempts persons who are really and truly of a different denomination from the majority of the corporation from paying towards the support of the teacher elected by the corporate body. It leaves them at liberty to apply their means towards the support of public instruction in religion and morality according to their own persuasion, which is supposed to be equally useful to society.

From the pleadings in this case, it appears that the plaintiff is a Presbyterian, and the First Church in Amherst, Congregationalist.

These are different sects, because they differ in church government and discipline, though they agree in doctrine.³⁴

This decision, which followed that of Alcott by only two years, reversed the former by a two-to-one vote. Evidently a sect as numerous as the Presbyterians had a better chance for justice than did the handful of Universalists. The judges reserved for themselves the possibility of more narrow decisions in the future. Justice Smith in his opinion also stated that "it did not follow that a civil magistrate may not lawfully punish certain offences

³³ 1 *New Hampshire Reports*, 1-38, *John Muzzy v. Samuel Wilkins, etc.*, 1803 decision.

³⁴ *Ibid.*

against the unalterable and essential principles of natural and revealed religion, such as blasphemy, reviling religion, and profanation of the Sabbath.'³⁵ These reservations left a lot of room for possible reversals at a later date.

Leaders in the Struggle against Establishment

There was during the closing of the eighteenth century and the beginning of the nineteenth a small but vigorous leadership in changing the climate of opinion.

William Plumer and Isaac Hill

William Plumer, an early advocate for freedom of conscience at the state Constitutional Convention in 1791, continued his long struggle for religious freedom. His approach was not solely at the verbal level. He gave freely of his time and energy to accept cases of dissenters who were taken before the courts for nonpayment of their church taxes. Samuel Livermore, jurist and leader in constitutional development, likewise threw his weight against a narrow orthodoxy. Persistently these two pursued their steadfast course.³⁶ In spite of their efforts in the 1790's, not until the second decade of the nineteenth century did the religious question become one of the major gubernatorial campaign issues. Then it became one of the real differences between the old Federalists who retained power in New Hampshire long after they had lost it on the national level and their opponents, the Jeffersonian Republicans. The latter, led by the old stalwart, William Plumer, and goaded by the lashing whip of Isaac Hill's editorials in *The New Hampshire Patriot*, soon began to destroy the Federalist power. The end of the War of 1812, the defeat of Napoleon, the debacle of the Hartford Convention—all of these helped to tarnish the Federalist cause.

It was in this political atmosphere that the state began to give greater attention to local issues—among them the relations be-

³⁵ *Ibid.*

³⁶ Their struggle for religious freedom and separation of church and state was not completely disinterested. Livermore was a staunch Episcopalian, a pillar of the church at Holderness. Plumer was said by his son to have been a Deist.

tween church and state—than to matters of national and international import. Hardly a month passed, after 1814, in which Isaac Hill failed to raise the question of religious toleration and the problem of a state-supported orthodoxy. During the 1816 campaign for Governor he narrowed the issue as follows:

It is a question solely between the friends of religious Toleration and universal freedom of conscience and a combination of men who are determined at all hazards to impose on the people a law religion—who are determined to make tenets of one sect the only standard of orthodoxy, and that orthodoxy the only qualification for office. View the vast strides taken by this combination within the past two years—view the funds which they have amassed to build up and perpetuate their plans—view the late decision of the Supreme Court which exempts teachers of that denomination from contributing any share in support of the public expenses, while the humble Quaker, the devout Baptist, the fervent Methodist, and teachers of other denominations, are compelled to pay a share of the very salaries of those exempted³⁷

Hill did not hesitate to use fear psychology in his approach to the electorate. Notice his prophecy that the leaders of orthodoxy were bent upon imposing a "law religion" upon the people.

A few weeks later a letter to the editor of the *Patriot* contained more in this same vein, this time with specific details of the abuse of power:

The Constitution of this state expressly provides that no person of any one particular sect or denomination shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

How does the conduct of the Standing Order accord with this provision? Do they not after notice, tax Baptists, Methodists, and Universalists, towards the support of the Congregational teachers? And do they not compel them to pay?

Such things have been done in the county of Cheshire. A good citizen of the neighboring town of Marlow once felt the gripe of the officer because he presumed to rely upon the strength of the Constitution. Amos Heald, Esq., of Packersfield, who is a Baptist, and who attended public worship with the Baptist church of Dublin, was taxed by the selectmen of Packersfield, who were of the standing order; and because he refused to pay, his property has been distrained and sold by the constable And lately a Mr. Sumner of Keene, a Methodist, has

³⁷ *The New Hampshire Patriot*, February 13, 1816, 3 (editorial).

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been taxed for the support of a Congregational teacher, has been committed to Gaol, and in order to procure his liberty, has been compelled to pay the tax. These men are republicans.³⁸

In the same issue a short editorial pointed out that during the past session of the legislature several petitions had been presented by various Baptist societies and had been rejected. At the same time when Congregationalists presented theirs, they had been granted. Whether or not this assertion is true, Hill caustically commented that "almost every federal member voted against them [the Baptist petitions]."³⁹ Right down to the final issue of the paper before the election, the *Patriot's* editor waged his fiery campaign. There was no doubt in his mind as to the predominant issue of the day. He blazoned it in bold letters across his front page:

RELIGIOUS FREEDOM, THE RIGHTS OF THE BAPTIST, QUAKER, METHODIST AND OF ALL DENOMINATIONS

in room of a Law Religion, imposed by an intolerant sect, who boast that they will manage the Civil Government as they please.⁴⁰

Whether or not the people believed with Hill that matters of church and state were the paramount issue of the day is not clear. It is a fact, however, that on the Tuesday following the appearance of this editorial the Republicans rode into power with William Plumer as Governor of the state.

While it must be recognized that some of the above was campaign fodder, there was a solid grain of truth in most of it. The people were rebelling against the state-supported church. The many separate actions at the town level were now coming to a head. They furnished sufficient proof to the lawmakers at Concord that a large portion of the population opposed an established church. The people were clamoring for a change in the basic law. Voices which had been previously lifted only in isolated parts of the state now concentrated their cries upon the state's capital. There, William Plumer, in his inaugural address to the legislature, reminded the lawmakers and the people that the

³⁸ *Ibid.*, Tuesday, March 5, 1816, 1 (Letter from "Luther").

³⁹ *Ibid.*, Editorial.

⁴⁰ *Ibid.*, Saturday, March 9, 1816. Headlines found on the first page.

state should not be the determinant of what is correct in matters of religion.

The rights of conscience and of private judgment in religious matters are not only secured by our constitution to all men, but are in their nature unalienable. Civil and religious liberty have usually flourished and expired together. To preserve their purity, requires the constant unremitted vigilance of the people and their legislators. If any religious associations request acts of incorporation, to enable them more fully and securely to enjoy their religious privileges, it appears to be our duty to grant them. The correctness of their tenets, is a subject that lies between God and their own consciences, and is one that no human tribunal has any right to decide. While therefore it becomes every man scrupulously to examine the foundation of his own belief, he cannot guard with too much jealousy against the encroachments of the civil power on his religious liberties.⁴¹

Plumer emphatically sought religious privilege and equality for all sects. It is interesting to observe that he says not one word of separation of church and state. This aspect of the question was left to others. What the Governor demanded was practically automatic incorporation of religious societies without any investigation into religious thought. While this much was considered a step in the right direction, it did not wholly satisfy some of the legislators.

Dan Young, Senator

The Reverend Dan Young of Lisbon, a Methodist preacher and member of the state Senate for five years, began in 1816 his legislative battle for the repeal of the act which legalized town-supported ministries. For the first three years his proposals either died in the Senate or failed to get through the House of Representatives. His original bill provided that all persons voluntarily associating themselves to build a house of worship or to hire a minister should be held to the fulfillment of their contracts, but that no person should be compelled to enter such a contract. That first year he secured only three other votes for his revolutionary measure. Undaunted by the general lack of sympathy he presented his bill the next year and got about

⁴¹ *Ibid.*, Tuesday, June 11, 1816. Governor Plumer's address to the legislature.

half the Senate to vote for it. The third year the Senate passed the bill, but this time the lower house turned it down. Finally in 1819, after a long, tempestuous, and often bitter debate in the House of Representatives, the "Toleration Act" became the law of New Hampshire.⁴²

Young's proposal did not sneak through the lower chamber; nor did it get by without the scrutiny of the people. The bill was fully reported to the public, even before the beginning of the critical session. Isaac Hill had seen to that. After the Senate battle, led by the stubborn Lisbon pastor, had come to its successful conclusion, Dr. Whipple of Wentworth took up the leadership. The *Patriot*, sensing at last the real opportunity for passage, presented the measure for public appraisal in a series of editorials and letters to the editor. A news item, printed a day or two prior to the final vote, included in part:

The effect of this bill, if it becomes a law will be to leave the subject of religion entirely on the ground of the Constitution—that is, that no dominant sect in any town shall compel individuals of other sects to contribute for the support of the dominant sect.⁴³

Editor Hill thundered,

It is difficult to perceive, what objections can be made to this bill, unless we suppose, that some people are so in love with liberty of conscience, that they want not only that to which they are constitutionally entitled, but also all that belongs to their neighbors. This bill disturbs no existing contracts between ministers already settled and their people—it disturbs no property in meeting houses erected by towns—it gives every religious denomination equal privileges, such as are guaranteed to them by the constitution, it gives every religious society or sect the right to support their own teachers, in the manner most agreeable to their own ideas of propriety; it gives every man a right, when his conscience shall dictate, to leave any sect to which he has belonged, and unite himself with any other It takes no man's property to pay a teacher without his consent⁴⁴

So important did the *Patriot* and its persevering editor deem this measure that it took first place in the paper's reporting for a

⁴² Jackson, 248ff.

⁴³ *The New Hampshire Patriot and State Gazette*, June 22, 1819, 1.

⁴⁴ *Ibid.*

six-month period, both before and after the law's passage. Hardly a week passed without its long essay, an editorial, a verbatim reporting of the debate in the House, or a printing of the law itself. Long letters were printed, most of them for the bill. When the day of reckoning had come and the decision made clear, Hill's jubilant lead editorial began—

THE TOLERATION LAW

will be found in the first page of this paper. We shall soon see whether "the flood gates of corruption" are opening—whether Gov. Bell will have cause for reproof of conscience for sanctioning this law—whether religion is utterly destroyed.⁴⁵

The editorial continued to explain that this measure was logical, sound, and essential to the well-being of the state of New Hampshire.

Separating Church and State—the Toleration Act

In another column of the same date, one reporting on legislative activities, there appeared the simple, precise presentation of what had occurred:

The bill entitled "an act in amendment of an act entitled an act for the regulating towns and the choice of town officers" . . . having been read a third time, motion was made that the bill be postponed to the next session of the legislature; which was negatived 103-79. Motion was then made that the bill pass, which prevailed . . .

The debate in the House of Representatives . . . although considerably protracted, has been exceedingly interesting. It has called into action much ingenuity and no ordinary talents. The debate commenced on an amendment by Dr. Whipple of Wentworth and was continued after its adoption, on the merits of the whole bill . . ."⁴⁶

A reading of the debate demonstrates clearly that the opposing forces knew what they were doing. The proponents, led by Dr. Whipple, carefully challenged each argument of the skillful opposition, who raised the usual clichés of the danger of departing from the ways of the past, of running counter to the Constitu-

⁴⁵ *Ibid.*, June 29, 1819, 3.

⁴⁶ *Ibid.* The *Patriot* carried extracts of the debate for several issues, beginning June 29, 1819.

tion, of the breaking down of the Christian religion, of destroying religion and morals. The emotional appeals failing, the opposition turned to parliamentary devices, but Dr. Whipple's was the whip hand to the end, pointing out time and again the intent of the bill to take religion out of politics, to eliminate state support, to insure opportunity to worship with true freedom of conscience, to put all sects and denominations of Christians upon a level.

The *Patriot*, a strongly Republican paper (it asserted that it was the only Republican paper in a state of Federalist gazettes) continued to raise the religious question far into the fall. Part of its purpose may have been to make political capital out of a popular issue. Part of it may have been the fear that the losers were girding their loins for a renewal of the contest in the next legislative session. Two months after Hill had first printed the "Toleration Act" he reprinted it in full, so that all would be sure to have had the opportunity to read it. Editorially he continued to remind the people of the conditions which had forced the legislation upon the state. He cited the arbitrary actions of selectmen, the narrow interpretations of the law by several judges, and the one-sided opposition of the General Court. One such editorial tends to show his persistent stand:

A recent instance of oppression in the town of Plymouth . . . we shall name. A gentleman of property and respectability united himself to the Episcopal society in Holderness, about one mile distant. The town authorities commenced a prosecution, and to defray the expences, assessed a special tax on every taxable inhabitant of the town, including each denomination. His honor, Judge Smith, then on the bench, charged the jury, when the case came to trial; he told the jury, if they were convinced that Mr. W. was bona fide an Episcopalian—if he had joined that society, because he could conscientiously worship with no other—they would excuse him from paying a tax to the established society in Plymouth; but if it appeared to them that he became an Episcopalian from a personal dislike to the Congregational minister, or from any miff toward the Congregational society, they would give a verdict for that society. The jury undertook the task of deciding what was this man's conscience, and they could not agree!⁴⁷

Hill continued from this illustration to assert that there were many similar instances of oppression in that New Hampshire town. He

⁴⁷ *Ibid.*, August 3, 1819, 3.

implied that incidents such as these had forced the people to demand the Toleration Act.

One might think that the Concord editor should have been well satisfied with the success of his cause. On his editorial pages he soon demonstrated that he thought the battle had just begun. He proceeded during the summer and fall to raise a few issues which had not received much, if any, emphasis before the passage of the act. To do this he made several comparisons between what had occurred in New Hampshire and legislation in other states.

Such are the provisions of the State of Alabama, guaranteeing not only perfect freedom as to modes of worship but also securing to every person that his religion shall not be a bar to his holding an office under the State. But such, we regret to say, is not the case under the constitution of New-Hampshire: our Constitution, to our discredit does contain a religious test—it requires as a qualification for the office of chief magistrate, that he “be of the protestant religion.” Happily the people of this State, as yet, have experienced no difficulty from this clause in our Constitution; but does any one pretend, in this enlightened day, that a pious and conscientious Catholic is less worthy to be a governor than many persons who call themselves protestants? . . .⁴⁸

Hill concluded this editorial with the suggestion that a sound solution would be the separation of church and state, with religious equality guaranteed for all citizens. Ahead of his time, he was raising the next touchy issues in the struggle of New Hampshire (1) to separate church and state and (2) to achieve political equality for all persons regardless of their religious beliefs.

Newspaper Reaction to the Toleration Act

The *Patriot* was not the only newspaper to recognize that the Toleration Act was a significant development in New Hampshire history. George Hough in the *Concord Observer* viewed the developments with increasing alarm. “If the bill,” he said, “is

⁴⁸ *Ibid.*, September 7, 1819. Hill had little to gain politically by calling upon the people to grant religious toleration to Catholics. At the time that he wrote this editorial there were very few Catholics in the state. The first Catholic church had yet to be built in New Hampshire. This editorial appears to be a real instance of political courage on the part of a man who was seeking a career in politics.

to have any effect, it is to lessen the provision for religious instruction—to leave a pretty numerous class of people, who belong to no sect or denomination, and who care for no public religious instruction . . . which we believe essential to the prosperity of civil government.”⁴⁹ Even though he labored arduously against the measure, he presented in his news columns during the months of July and August, after the legislative decision had been reached, some of the debate on both sides.

Outside the capital city, as one might expect, there were both some opposition and some support. *The New Hampshire Gazette* threw its editorial weight behind the act. “The object . . . is merely to deprive the dominant sect in any town of the power of dragooning individuals into the support of doctrines which they may disbelieve”⁵⁰ Later on in the same article, giving answer to those who were shouting “destruction of religion” and “Godless legislators,” the *Gazette* stated:

This upright and enlightened conduct is so far “from opening the flood-gates of corruption” that it will undoubtedly, if persevered in, eventually do away with that hypocrisy and double dealing in matters of religion, which have so long existed both in and out of the sacred desk.⁵¹

In like manner the *Strafford Register* appeared to follow much the same line of thinking and devoted much of its news and editorial space during July and August of 1819 to defending the passage of the act which revolutionized the nature of religious support.⁵²

In the southwest corner of the state the *New Hampshire Sentinel* joined the *Concord Observer* in vehement opposition to the measure which, it said, was destroying the public worship of God. Even after the results were made clear, the *Sentinel* refused to accept the decision. To let the people know, the paper devoted one full page of its four to a résumé of the debates. Bemoaning the result as an interference of the legislature in

⁴⁹ *The Concord Observer*, Monday, June 28, 1819, 1.

⁵⁰ *The New Hampshire Gazette*, Portsmouth, N. H., Tuesday, July 13, 1819, 2.

⁵¹ *Ibid.* This and the following issues carried long editorials and excerpts of the debate in the House of Representatives.

⁵² *The Strafford Register*, Dover, N. H., Tuesday, Aug. 10, 1819.

local affairs, the journal recommended that the towns should be permitted "in their corporate capacity to maintain the institution of the public worship of the Deity."⁵³

Regardless of the merits of the controversial measure, several things are clear. The people had had a chance to study the issues and to make their opinions known to the legislators. The decision itself was by no means a snap judgment. Rather, it was one which had caused incessant debate at town meetings. Second, it was one which had slowly developed in the legislative chambers at Concord over a four-year period. The newspapers of the state both recognized the importance of the legislation and gave it ample space in their news columns. True, not all of the papers campaigned as relentlessly as did Isaac Hill and his *Patriot*. On the other hand they did not neglect the issue. Both the proponents and the opponents in June, July, and August of 1819 gave primary attention to the religious question. So significant did they deem the issue that in several cases the act was printed in full. Most of the larger papers presented long extracts of the House debate. Few, if any, papers ignored the controversy.

Effect on the Political Scene

Several of the editors saw in this religious conflict a key campaign issue for the next gubernatorial election. As mentioned earlier, Hill's *Patriot* never ceased its attack upon those who opposed the act. Bell's campaign for reelection was waged with strong religious undertones. Hill asserted that the "Chief men and scribes of a certain orthodox denomination" were making every effort to gain control of the government for their own advantage in religious matters. The election of 1820 soon told its own story as to what the people wanted. They overwhelmingly approved Bell's candidacy, sweeping him back into office with a tremendous majority. In like manner they reproached the Federalists for continuing the fight on an issue upon which the people had so forcefully spoken. Perhaps it is not amiss to observe that Isaac Hill himself was elected to the state Senate in that same year, 1820, to begin a career that was to take him

⁵³ The *New Hampshire Sentinel*, Keene, N. H., Saturday, August 21, 1819, 1.

both to the United States Senate and to the state governorship.⁵⁴

It is interesting to speculate as to the effect of the religious struggle upon the ultimate fate of the Federalist cause in New Hampshire. With relations between church and state as a major issue, the Federalists went down to defeat in 1816. With these relations as the *first* issue in 1819 and 1820, the Federalists were shattered, disappearing as a major party in the Granite State.

The Toleration Act of 1819

The following is the act which plays so important a role in the history of New Hampshire, the act which brought to an end the maintenance of a European tradition—official support of an established religion by government, an act which is a milestone in the developing of an American tradition—the separation of church and state:

THE TOLERATION ACT

July 1, 1819—an excerpt from "An Act, in Amendment of an Act entitled an Act, for Regulating Towns and the Choice of Town Officers, passed February 8th, Anno Domini 1791,—

Sec 2. And be it further enacted, That the tenth section of the Act, to which this is an amendment, be and the same is hereby repealed. Provided that towns between which and any settled minister there is prior to, or at the passing of this act a subsisting contract, shall have a right from time to time to vote, assess, collect and appropriate such sum or sums of money as may be necessary for the fulfillment of such contract and for repairing meeting-houses now owned by such town so far as may be necessary to render them useful for town purposes—Provided that no person shall be liable to taxation for the purpose of fulfilling any contract between any town and settled minister who shall prior to such assessment file with the town clerk of the town where he may reside a certificate declaring that he is not of the religious persuasion or opinion of the minister settled in such town.

Sec 3d. And be it further enacted, that each religious sect or denomination of Christians in this State may associate and form societies, may admit members, may establish rules and by-laws for their regulation and government, and shall have all the corporate powers which may be necessary to assess and raise money by taxes upon the polls and rate-

⁵⁴ *The New Hampshire Gazette*, Tuesday, May 30, 1820, 2.

able estate of the members of such associations, and to collect and appropriate the same for the purpose of building and repairing houses of public worship, and for the support of the ministry; and the assessors and collectors of such associations shall have the same powers in assessing and collecting, and shall be liable to the same penalties as similar town officers have and are liable to—Provided that no person shall be compelled to join or support, or be classed with, or associated to any congregation, church or religious society without his express consent first had and obtained—Provided also if any person shall choose to separate himself from such society or association to which he may belong, and shall leave a written notice thereof with the clerk of such society or association, he shall thereupon be no longer liable for any future expenses which may be incurred by said society or association—Provided also, that no association or society shall exercise the powers herein granted until it shall have assumed a name and stile by which such society may be known and distinguished in law, and shall have recorded the same in a book or records to be kept by the clerk of said Society, and shall have published the same in some newspaper in the County where such society may be formed if any be printed therein, and if not then in some paper published in some adjoining County.⁵⁵

Implications of the Law

The New Hampshire historians are practically unanimous in their praise of the measure. Barstow, who concluded his history at this critical point in the state's development, stated that the fanatics fought with their usual ferocity and zeal, but that the enlightened portion of the people hailed the change with joy. As he put it,

By the orthodox it was loaded with anathemas. The clergy feared that their tithes would be diminished when the people were no longer compelled to pay them. The ignorant and bigoted mourned over the change with well-meant sorrows. "Alack! Alack!" said they, "religion! we have none of it. Our general court at Concord have put away our religion. The godly folk there fought hard and long for religion, but the wicked ones outnumbered them, and religion is clean gone." The clergy had instilled into the minds of the ignorant that the wicked ones (who composed the majority of the legislature) had destroyed a law without which religion could not exist.

After the passage of the Toleration Act, a clamor was raised throughout the state, with the hope of producing a reaction against the bill

⁵⁵ *Laws of New Hampshire*, VIII, 821.

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and thus influencing the elections. Some declared it to be a "repeal of the Christian religion;" others said that "the Bible is abolished;" others that "the wicked bear rule." The truth perhaps was that the dominant sect could no longer support their system by extortion and oppression, that all sects were placed upon a level—so that it was not religion which was abolished, but the power of the Congregational order.⁵⁶

Jackson, in his *History of Littleton*, notes a result even in a town where the religious issue had not appeared to be too serious. He stated that "even though the union was neither close nor strenuous, it had been a source of irritation, because a question was always raised at every town-meeting, and citizens arrayed for or against the various propositions concerning the place of established religion in the community."⁵⁷ It was his opinion that the law was soon universally approved.

Notwithstanding the great clamor raised for and against the Toleration Act during the summer of 1819, matters appear to have settled quickly into a peaceful mould as the towns appraised their respective situations and moved gradually toward the elimination of the support of the clergy and town control over the ministry. Since the law provided that the existing contracts should not be affected, the change was not a precipitous one.

The Toleration Act neither separated church and state nor eliminated all strife over the support of churches and ministries at New Hampshire's town meetings. There were the on-going contracts which, in some cases, continued to run on for twenty or more years. There were the few who resisted change, legal though that change was. In Bedford, for example, the town dismissed an article which would have excused some of the inhabitants from paying their shares of the pastor's tax.⁵⁸ There were still questions over the use of meeting houses; and perhaps most vexatious of all was the problem of proper distribution of trust funds which had accumulated in several of the towns over the years. Whose funds were these? How were they to be divided? Did the towns have the authority to appropriate them to the use of the Congregational Church? Could the towns divide them

⁵⁶ George Barstow, *The History of New Hampshire, 1614-1819*, 440.

⁵⁷ Jackson, 238-39.

⁵⁸ Town of Bedford, *History of Bedford*, 535.

among all their churches? Could a town tax the public to pay interest on these funds, funds which while they had been put in trust had been appropriated by the town for other purposes? Did the town have a voice in the distribution of church property if the Congregational units split into Trinitarians and Unitarians? These are some of the questions which immediately thrust themselves before the towns, the courts, and the state legislature.

Bedford, A Case History

During the 1820's and the 1830's the town of Bedford voted to divide the interest money rising from the sale of ministerial land, according to the way in which taxpayers had announced their church allegiances. What tended to occur was that the smaller societies got the proportion of the whole indicated by the signatures of their members. The remainder was considered to be the property of the dominant church. In Bedford this was the Presbyterian. No account was taken of those who announced no preferences. For some reason or other, after thirty years of this, the board of selectmen in 1850 refused to raise or appropriate any money for the payment of the interest on the ministerial fund. The last sum recorded as distributed to the Presbyterian society was \$113 in 1853.⁵⁹

Later, during the legislative session of 1865, Solomon Manning, one of the Presbyterian leaders, went to Concord to lobby for the passage of an act which would have enabled the town to pay this money—old church funds—toward the support of the ministry. Surprisingly, an act was passed to the effect that towns in the possession of funds from "property or funds originally set apart for purposes of education or the support of the ministry" (in the lobbying for the bill education was emphasized) might be set apart and devoted for purposes of their original destination.⁶⁰ Thereupon the selectmen inserted an article in the next town warrant to achieve this end. The bill passed. Since the town had long since spent the money, it issued a note for \$2,100 to the trustees, one of whom was the same Solomon Manning who had urged the

⁵⁹ *Ibid.*, 394-95.

⁶⁰ *Ibid.*, 534-37.

passage of the enabling act at Concord, and the town commenced to pay interest on this fund. For two years the town paid. In 1869 the selectmen rebelled against what they claimed was a fraud upon the people and requested that a committee be appointed to investigate. Upon being given the opinion that the act of 1865 was probably unconstitutional (they didn't bother to take it to the courts), the selectmen stopped the interest payments.

While the issue lasted longer in Bedford than in other centers, Sanbornton, Hampton, and Hopkinton were some of the other towns which had to deal with similar situations. Like Bedford they eventually came to abandon the practice of distributing funds to church societies, regarding it as contrary to the spirit and intent of the Toleration Act of 1819.⁶¹

Trinitarian versus Unitarian

Just at the time of the passage of the Toleration Act, the Unitarian movement began to affect the thinking of some of the New Hampshire ministers. This naturally had its repercussions on town-church relations. In 1817 a Reverend Mr. Sprague made a bequest of \$5,000 to the town of Dublin, New Hamp-

⁶¹ Problems arising out of varied interpretations of the meaning of the Toleration Act frequently were taken to court for necessary clarification of the intent of the act. Among the decisions handed down by the New Hampshire Supreme Court, the following appear to be key interpretations:

8 *New Hampshire Reports*, 133, *Town of Candia v. French*, 1835. "The Act of 1819, repealing the law authorizing towns to vote and grant money for the settlement, maintenance, and support of the ministry, did not deprive them of the right of appropriating property previously acquired for religious purposes, to the use for which it was designed, by granting it to religious societies within their limits."

21 *New Hampshire Reports*, 319, *Town of Lisbon v. Town of Bath*, 1850. "Under Act June 28, 1827, providing that towns having a contract with a minister may assess, collect, and appropriate such sums as may be necessary for the fulfillment of the support, a town tax for the support of the minister must be specially voted and assessed, and cannot be included under a vote to raise money for defraying town charges."

27 *New Hampshire Reports*, 104, *Rice v. Wadsworth*, 1853. "A town which has devoted the fund set apart for the support of the ministry to the purchase of a poor farm cannot legally assess a tax for the purpose of paying the interest of such fund to the support of the ministry, although it was provided in the vote so to devote such fund that 'the fund should be refunded back to said town, whenever the town shall so vote,' and although the town has voted so to pay the interest of such fund." This last decision should have been sufficient precedent for the selectmen of Bedford to stop the collection of taxes to pay the interest on their trust fund.

shire, in trust for the support of the Christian religion in that society. According to the terms of the bequest the interest was to be paid quarterly, forever, to the minister of the Congregational persuasion who should be regularly ordained and preaching in that society.

In 1820 the society called a Unitarian preacher, a Reverend Mr. Leonard, to the pastorate of the town of Dublin. For several years the town, according to the terms of the will, paid him the interest on the \$5,000. In 1827 the church split, a group with Trinitarian leanings withdrawing from the church in order to form their own Congregational church. In 1836 this new group built a meeting house and in 1837 organized and assumed corporate powers under the name of the Trinitarian Congregational Society of Dublin. The Trinitarians, now in need of funds, sought first from the town and later from the courts the interest on Sprague's bequest for their religious purposes. They requested through their minister that, because the Unitarians were not fit objects of trust, the town (1) should be enjoined not to apply the income to Leonard or Bridge, but (2) should be ordered to pay it for the support of complainant Abbot (the Trinitarian minister) and the benefit of the Trinitarian Society.⁶²

The opinion handed down by Chief Justice Ira Perley for the Supreme Court of New Hampshire appears, even a century later, to be a terse and well-reasoned opinion:

. . . we are of opinion that seceders from the society and new Congregational societies have no claim to share in the income.

. . . The case shows, according to the opinion which we have expressed, that Mr. Bridge is the minister within the meaning of the will, and the income . . . is to be paid to him.

When part of a religious association separate and establish a new society, they cease to be members of the original society, and have no longer any claim to their property.⁶³

In expressing the court's opinion Chief Justice Perley went beyond the above. He asserted that, while the towns no longer had the power to tax for religious purposes, towns had the power

⁶² 38 *New Hampshire Reports*, 464, The Attorney General, at the relation of Abbot & a., v. The Town of Dublin, 1860.

⁶³ *Ibid.*, 576.

and the responsibility of supporting religion within their limits. To his way of thinking church and state should not be completely separated.

The power to make contracts and raise taxes for that object has been taken away; but we see no reason to believe that it was intended to deprive them of the power to hold funds in trust, to aid in supporting religion within their limits, whether the funds had been entrusted to them at the time when the act was passed or have been given since . . . Towns in this State are to be regarded as a coordinate branch of the government, established to advance the general good of the people; and under our constitution no one can entertain a doubt that to maintain the institutions of religion is an object quite consistent with the general purpose for which towns are created, and towns have at least an indirect interest in promoting religion within their limits.⁶⁴

This decision, at least for the time being, made three things clear: (1) Unitarians had a right to religious status in New Hampshire, (2) the towns had the right to administer trust funds for religious purposes, and (3) towns had the duty to support the institution of religion generally.

Hale versus Everett

One of the more celebrated cases in New Hampshire jurisprudence is that of Hale versus Everett. As is sometimes the case, the individuals involved get lost in the maze of judicial thinking. In this case the issue concerned whether or not Francis E. Abbott should be allowed to preach in the meeting house controlled by the First Unitarian Society of Christians in Dover. The Reverend Mr. Abbott, who had formerly been the pastor of the church, had during his ministry there shocked some of his parishioners by stating from the pulpit that he was neither a Unitarian nor a Christian. According to the bill of particulars,

. . . he declared his disbelief in the doctrine of the Lordship and Messiahship of Jesus, and that the writings of some men now living are as highly inspired and as sacred as the Bible, and declared the doctrine "that whenever a human soul has uttered its sincere and brave faith in the divine, and thus bequeathed to us the legacy of inspired words, there is the Holy Bible;" . . .⁶⁵

⁶⁴ *Ibid.*, 577.

⁶⁵ 53 *New Hampshire Reports*, 14-15, Hale v. Everett, 1863.

Abbott was also purported to have stated that he himself stood outside of Christianity, that religion has "no more to do with Jesus than it has with Judas," and that true religion "leaves the soul alone with God."

Whether or not Abbott made these specific remarks is not clear; it is clear from the bill of particulars that he had made statements of this nature in his sermons to the Dover Unitarians. At the annual church meeting in March, 1868, the society split sharply over the question of the hiring of Abbott to preach for another year. After several stormy and tumultuous sessions, it appeared as though Abbott's followers had decided to form an independent group. They selected wardens, among them Lucius Everett, who made a contract with the minister for preaching and arranged for him to preach from the same pulpit that he had just vacated. The opposition forces, led by Samuel Hale, thereupon asked the court to restrain the use of the meeting house of the First Unitarian Society. They specifically requested that the wardens be

. . . jointly and severally strictly enjoined and forbidden to hire, employ, allow, suffer, or permit said Francis E. Abbott, or any other person, to preach and inculcate in the meeting house of said society doctrines subversive of the fundamental principles of Christianity, as generally received and holden by the denomination of Christians known as Unitarians; or to employ, suffer, or permit to preach in said meeting-house any person who rejects Christianity altogether . . .⁶⁶

Chief Justice Jonathan Everett Sargent, who presented the majority opinion in favor of Hale that Abbott should be deprived of his clerical charge, found it necessary to review the whole history of church-state relations in New Hampshire to find sufficient justification for the court's actions. In a long, involved, and often abstruse opinion, he rested much of the case on the "fact" that Abbott could not have been qualified to preach in the Dover parish church because he had himself stated that he was not a Christian. Through 133 pages the justice laboriously attempted to define the meaning of the Constitution, often getting somewhat entangled in what is or is not freedom of conscience, in what is and what is not proper religion. At one point Sargent stated:

⁶⁶ *Ibid.*, 134.

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It is not the province of courts of justice to decide or to inquire what system of religious faith is most consistent, or what religious doctrines are true or what are false, in any case, and it seldom becomes necessary for courts to discuss or examine the creeds or confessions or systems of faith of the different religious sects, in determining questions of law, except in cases where they are called upon to see that a trust or charity is administered according to the intention of the original founders.⁶⁷

This section seems quite clear. The justice is saying that the courts have no right to inquire into questions of religious faith or doctrine, that the courts have solely the responsibility to see that trusts or charities are administered in accordance with the intents of the founders of those trusts or charities.

Yet in almost the same breath the eminent Sargent inserts a definition or explanation of the proper meaning of "Christian."

The political or conventional use of the word "Christian," denoting one who assents to the truth of the doctrines of the religion of Christ, or who, being born of Christian parents or in a Christian country, does not profess any other religion or belong to any of the other religious divisions of men, is the sense in which the word is ordinarily used in constitutions and statutes and legal documents, and referring to those commonly known as nominally "Christians," rather than to those who, professing the faith of some particular church, are termed "Christians" in the theological or sacred sense of the term.⁶⁸

The clue to the court's decision is apparently found in the clause which states "does not profess any other religion or belong to any of the other religious divisions of men" Abbott had professed to believe something other than the usually accepted version of Christianity. Sargent continually referred to Abbott's renunciation of Christ as the Messiah and to the preacher's rejection of Christianity itself.

The court, however, did not comment on the question of freedom of conscience; nor did it discuss the fact that Christians, in a free election, had chosen Abbott to be their pastor and still wanted him to minister to their spiritual needs! The majority assumed that it had power to rule whether or not the defendant

⁶⁷ 53 *New Hampshire Reports*, 9, *Hale v. Everett*, 1868. The case, majority opinion and minority opinion, is found on pages 9-276.

⁶⁸ *Ibid.*

was a Christian and whether or not he could continue to preach in the Dover church.

In his minority opinion, Justice Charles Doe protested vigorously that the action of the majority was in direct violation of freedom of conscience and alien to the spirit of the Toleration Act with its concept of free exercise of religion. Basically, the justice logically concluded, the issues were simple and clear:

The power of electing public teachers is granted to all parishes by the constitution.

This power, if limited in any respect, is not limited by any other than the Protestant official test;

Abbott is a Protestant within the meaning of that word as used in the Constitution;

And this Dover parish, in the exercise of its constitutional power is authorized to elect him to be one of its public teachers.⁶⁹

Elsewhere in his opinion, Doe roundly criticized his colleagues for their narrow interpretation of what a Christian can believe. He further denied that it was within their province to analyze the doctrines of one who preached in the pulpits of New Hampshire. He did not see it as any of their business if Abbott had a different concept of the nature of Christ than they thought a preacher should have.

The jurist closed his lengthy minority opinion with a ringing appeal for "the common cause of religious freedom," an appeal which the twentieth century holds is nearer to the spirit of the first amendment than is that of his learned colleagues.

Unless Abbott's religion is unconstitutional, the majority of this Dover parish . . . did what they had an obvious constitutional right to do. We cannot adjudge his faith to be a heretical departure from a state religion until we destroy the constitution, establish a state religion, and annex a supreme bishopric to the judicial office. If we condemn this man as a heretic, and his religion as an offence against the state . . ., we can anathematize and outlaw any other person, and any other form of religion. Abbott's cause, strenuously opposed in the field of theology, becomes, in law, the common cause of religious liberty, and the indestructible interest of mankind. The decree cannot be aimed at him until it batters down constitutional bulwarks, erected by our ancestors for the

⁶⁹ *Ibid.*, 227.

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defence of a possession, which, through ages of suffering and struggle, cost too much, and, after being long enjoyed in apparent safety, has been found worth too much, to be voluntarily surrendered.⁷⁰

But Doe's arguments were of no avail. His fellow justices found in Abbott's thinking and preaching, as these had been presented in the evidence, ideas they considered dangerous for a Christian people, and they ruled that Abbott should be denied a pulpit in the city of Dover.

Conclusions

The Toleration Act may well be the most significant single element of New Hampshire's living tradition concerning the relationship between church and state. Actually it did not state that a town should not support the ministry. It did not state that public funds should not be used for religious purposes. It did not categorically order that all religious groups should be free to associate and to organize without legislative sanction. On the other hand, local officers found themselves limited in their interpretation of the law. The dissenter from the established order could make his dissent stick. In essence, the most important result was that towns found it practically impossible to settle pastors and to raise funds for their support. Even in towns that legally were able to continue to support an already established pastor, public support began to dwindle.

Important as the act is, it still left several touchy issues unresolved. Bedford's difficulties with finances and Abbott's ousting by the courts are sufficient evidence that church and state were not irrevocably separated. Court decision after court decision reaffirmed the idea that New Hampshire was a Christian state. Indeed, there were many suggestions that the interpretation was even narrower, that New Hampshire was a Protestant stronghold. The law left some open sores which, if allowed to fester, could have left state and church in continuous agitation.

Isaac Hill, the zealous editor and publisher of *The New Hampshire Patriot and Gazette*, even before the ink was dry on the Toleration Act, put his finger upon the issue which was to

⁷⁰ *Ibid.*, 276.

confound both the politicians and church—state relations for more than the next half-century. His pungent editorial of September 7, 1819, struck right at the heart of the problem:

. . . our constitution, to our discredit does contain a religious test—it requires as a qualification for the office of chief magistrate, that he “be of the protestant religion.”

Hill might also have added that representatives and senators faced the same religious test. That particular issue is part of New Hampshire’s struggle to create a constitution which would express what the people desired in the way of a proper relationship between church and state. This struggle is a chapter in itself.

IV

The Struggle for Constitutional Change

ROOTING THE NEW TRADITION IN LAW

FOLLOWING the outbreak of war with England, New Hampshire quickly declared itself a free and independent state with all the powers of government. It was not until 1784, however, that the people adopted a permanent Constitution.

Church and State in Early Constitutions

In October of 1775 the delegates to the Continental Congress were instructed to obtain the advice of the Congress with respect to administering justice and regulating the civil police. Two weeks later, on November 3, the Congress adopted the following resolution:

Resolved, That it be recommended to the provincial convention of New Hampshire to call a full and free representation of the people . . . [to] establish such a form of government as in their judgment will best produce the happiness of the people and most effectually secure peace and good order in the province during the continuance of the present dispute between Great Britain and the Colonies.¹

Act of 1776

Thereupon the provincial congress of New Hampshire, on January 5, 1776, adopted what was probably the first written constitution of government of any of the newly united states. The provincial congress did not visualize itself as a permanent

¹ *Provincial and State Papers*, XI, 737.

government; rather, it saw itself as an interim commission dispensing justice till peace should be restored. The reasons for the establishment of the new regime in New Hampshire and the purposes of that government are quite broadly stated:

The sudden & abrupt Departure of his Excellency, JOHN WENTWORTH, Esq; our late Governor, and several of the Council, leaving us destitute of Legislation; & no Executive Courts being open to punish criminal offenders, whereby the Lives and Properties of the honest People of this Colony, are liable to the machinations and evil Designs of wicked men:

Therefore for the preservation of peace and good order, and for the Security of the Lives and Properties of the Inhabitants of this Colony we conceive ourselves reduced to the Necessity, of establishing a Form of Government, to continue during the present unhappy and unnatural contest with Great Britain; Protesting and declaring that we never fought to throw off our Dependence upon Great Britain; but felt ourselves happy under her Protection, while we could enjoy our Constitutional Rights & Privileges—and that we shall rejoice if such a Reconciliation between us, and our Parent State, can be effected as shall be approved by the Continental Congress, in whose Prudence and Wisdom we confide.²

"A Declaration of Rights and Plan of Government"

The new regime, considering itself temporary, did not tamper much with the general organization of government. However, during the period between 1775 and 1779 the state gradually began to recognize that the cleavage was deeper than it had originally suspected. In the latter year, at Exeter, following the recommendation of the Continental Congress, delegates of New Hampshire set forth "A Declaration of Rights, and Plan of Government for the State of New-Hampshire."³ The mood had changed and the representatives of the people were now more

² *Ibid.*, Appendix.

³ *Ibid.* During the Revolutionary War the seat of government was at Exeter. All the sessions of the provincial congress or conventions met there. The first six sessions of the state legislature assembled at Exeter, except for those of 1777 and 1780, which were held at Portsmouth. In 1782 Concord became the capital. From then until 1807 the legislature met at various places, including Concord, Exeter, Portsmouth, Hopkinton, Charlestown, Dover, and Amherst. After 1807 Concord became fixed as the capital of the state, the meetings of the legislature taking place at the old town house that stood on the site of the Merrimack county building of today. State of New Hampshire, *Manual for the General Court, 1949*, 124.

precise in their expressions of purpose. Whereas the previous statement had been general, the new Declaration proposed seven rights which should be guaranteed to a free people. The fifth of these goes back to a similar guarantee which had appeared in each of the royal commissions:

Fifthly. The future Legislature of this State, shall make no Laws to infringe the Rights of Conscience, or any other of the natural unalienable Rights of Men, or Contrary to the Laws of God, or against the Protestant Religion.⁴

Note how similar this is to the statement found in the commissions of one of the royal governors:

You shall permit a Liberty of Conscience, to all Persons (Except Papists) so they be contented with a quiet and peaceable Enjoyment of the same, not giving Offence or Scandall to the Government.⁵

The "Plan of Government" proposed a Council and a House of Representatives, very similar to those that had existed in New Hampshire for the previous century. The eighth article reminds us once more that the people were quite conscious, and zealously so, of the fact that their society was Protestant:

All the Male Inhabitants of the State of lawful Age, paying Taxes, and professing the Protestant Religion, shall be deemed legal Voters in choosing Councillors and Representatives and having an estate of three hundred pounds . . . one half at least whereof to be real estate, and lying within this State, with the qualifications aforesaid, shall be capable of being elected.⁶

Although this constitution was rejected by the people, it well expressed the religious outlook of the populace. It should again be observed that while the constitution was to safeguard the rights of conscience, these rights were narrowly construed to belong only to those who called themselves Protestants. Believers in all other creeds were to be denied the privilege of running for public office; indeed they were denied even the right to vote in public elections. William Plumer, Jr., in his biography of his father, made the observation that this religious test was proposed

⁴ *Provincial and State Papers*, XI, Appendix.

⁵ *Laws of New Hampshire*, III, 274.

⁶ *Provincial and State Papers*, IX, 339.

at the same time that the country was discussing the alliance with France which, as Plumer put it, "however beneficial in other respects, was thought by many likely to favor the introduction of popery among us."⁷ Regardless of this plausible, immediate reason for the Protestant bias, the "Plan of Government" was in keeping with the pre-Revolutionary tradition.

Proposed Constitution of 1781

Following the rejection of the 1779 constitution by the people, another convention was called in 1781 to take up again the task of creating a fundamental document of government. Neither the journal of this deliberation nor that of the previous convention is available for our scrutiny. Therefore it is difficult to present the varying shades of opinion. In presenting the results of the 1781 meetings to the people, President Atkinson of the convention uttered sentiments which were not wholly reflected in the new framework of government. In commenting upon the essential principles which the delegates had felt necessary to include, he concluded:

We have distinguished betwixt the alienable and unalienable rights; for the former of which men may receive an equivalent; for the latter, or the rights of Conscience, they can receive none; The world itself being wholly inadequate to the purchase. "For what is a man profited, though he should gain the whole world, and lose his own soul?"

The various modes of worship among mankind, are founded in their various sentiments and beliefs concerning the Great Object of all religious worship and adoration. Therefore to him alone and not to man, are they accountable for them.⁸

Articles IV and V of the 1781 "Declaration of the Rights of the People of New Hampshire" bear out Atkinson's noble expressions:

Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the Rights of Conscience.

Every individual has a natural and unalienable right to worship God according to the dictates of his own Conscience, and reason—and no

⁷ William Plumer, Jr., *Life of William Plumer*, 49.

⁸ *Provincial and State Papers*, IX, 851.

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subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping God, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion; provided he doth not disturb the public peace or disturb others in their religious worship.⁹

With these first two articles on religion there should be little quarrel. On the face of them any religious faith—Protestant, Catholic, Jewish, or any other—might have been taken as acceptable to the writers and to the state of New Hampshire. At first glance one might suspect that the war years had brought with them a tolerance which is not usually associated with a nation at war.

Article VI put all of this aside and presented very forcefully the conflict which was then in the minds of men. The high sentiments of the two previous articles pale into insignificance in face of the reality of the following:

As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to Government, and will lay in the hearts of men the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity and of public instruction in morality and religion; therefore to promote these important purposes, the people of this state have a right to impower, and do hereby fully impower the Legislature to authorize from time to time, the several towns, parishes, bodies corporate or religious societies within this State to make adequate provision at their own expence, for the support and maintenance of public Protestant teachers of piety, religion and morality.

Provided notwithstanding, That the several towns, parishes, bodies—corporate or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians demeaning themselves quietly and as good subjects of the State, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

⁹ *Ibid.*, 853.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry, but all such contracts shall remain and be in the same state as if this Constitution had not been made.¹⁰

Apparently the same confusion of ideas which had existed in Massachusetts in the previous year, when that state made its constitution, prevailed at Concord in 1781. While the delegates wanted to express the thesis of freedom of conscience they found themselves also giving more than lip service to the status quo—established evangelical Protestantism, the right of the towns and parishes to elect ministers, and the maintenance of one or more religious sects. That they not be misunderstood, they specifically stated that existing town contracts should be considered binding regardless of other parts of the Constitution.

The fact that New Hampshire followed in the pathway of Massachusetts was not accidental. The several articles just quoted from the New Hampshire Constitution are practically the same as those which existed in that of the Bay State. Thorning and Colby infer, therefore, that John Adams was the author of the religious clauses in two constitutions.¹¹ Meyers says that this conclusion is unwarranted, for John Adams "could not solve that problem to his own satisfaction, so he left it for another committee."¹² There is little doubt, though, that New Hampshire solved its ticklish problem of writing religious clauses by copying almost verbatim what Massachusetts had just drafted.

In addition to this official approval of a state-authorized establishment, the body of the Constitution of 1781 also provided for certain religious qualifications for all those who would hold elective office. In essence the several clauses are as follows:

. . . That no person shall be capable of being elected a Senator, who is not of the Protestant religion

. . . and no person shall be a member of the House of Representatives unless he be of the Protestant Religion

The Governor shall be chosen annually; and no person shall be eligible to this office . . . unless he shall be of the Protestant Religion.¹³

¹⁰ *Ibid.*

¹¹ J. F. Thorning, *Religious Liberty in Transition*, 152; J. F. Colby, *Manual of the New Hampshire Constitution*, 91.

¹² Jacob Meyer, *Church and State in Massachusetts, 1740-1833*, 106.

¹³ *Provincial and State Papers*, IX, 863, 864, 867.

This apparent Protestant bias, while it offended certain broad-minded men such as William Plumer, actually did not affect very many people in the state. New Hampshire was almost wholly Protestant. According to DeGoesbriand there were only occasional tours of Catholic priests into Maine and New Hampshire as late as the turn of the century. He reports one visit to Portsmouth in 1792, another in 1798. There are no figures as to the number of Catholics about 1780, but they must have been a mere handful. Rev. Thomas O'Gorman reported that, as late as 1840, the Diocese of Boston, which included New Hampshire, had only 1,370 Catholics and two priests. In the eighteenth century the Roman Catholic was a rarity in the typical New Hampshire community.¹⁴

The people rejected the 1781 Constitution and its first revision. There is, however, no evidence to show that the religious clauses were at all questioned. Indeed, the 1784 revision which was finally adopted by the state had not tampered in any way with the religious clauses, either in the Bill of Rights or in the "Form of Government."

William Plumer and the Religious Clauses

Some statesmen, among them William Plumer, clearly recognized the contradictions in the document and began the long battle against religious bias and intolerance in general. His son reported that Plumer wrote his first major essay on religious liberty at this period, pointing out in it that not only Protestants, not only Christians, but "all men are equally entitled to the protection of the laws, who demean themselves peaceably, as good members of civil society, without reference to their religious opinions; and that any man should be eligible to office who possesses the ability for the discharge of its duties."¹⁵ The first printer who was asked to publish this essay refused; extra persuasion and extra money were needed to convince him that he should. But the words were not entirely unheeded. As time

¹⁴ Louis DeGoesbriand. *Catholic Memoirs of Vermont and New Hampshire*, 17; Thomas O'Gorman, *A History of the Roman Catholic Church in the United States*, 348ff.

¹⁵ Plumer, 49.

passed the biased provisions of the Constitution were not wholly followed in practice.

Perhaps with his father in mind the younger Plumer stated that men who were "not Protestants, nor even Christians, have been repeatedly chosen to offices which, under these provisions, they were not entitled to hold; and no attempt was ever made to exclude them on the ground of this religious disqualification."¹⁶ His blanket assertion that "no attempt was ever made to exclude" should be scrutinized closely. The real reasons for naming some candidates and rejecting others are often obscured by the broad generalization that the party is seeking the best candidates.

Effects of the Religious Clauses—Protestant Establishment, 1791

The Constitution-makers of New Hampshire had, however, made two things clear: (1) the state intended to continue its long-established practice of authorizing the separate towns to maintain Protestant ministries, and (2) the state, while it did not support a particular sect, asserted that all public officials should be professed Protestants. The religion of the people was thus clearly drawn into the political arena. As it had been in the royal province, so it would be in the independent state—the question of the support of the town's church and the town's minister was still fair game for the hunters at each town meeting. Likewise a person's religious beliefs were subject to public challenge if he felt inclined to toss his hat into the ring of political candidates. Over the door of each public office was the sign, "Protestants only should apply."

It is difficult to reconcile this action with that taken by the convention called to consider the Federal Constitution. On June 20, 1788, under the leadership of Judge Samuel Livermore, an Episcopalian from Holderness, that convention voted that "Congress shall make no laws touching religion or to infringe the rights of Conscience."¹⁷ This resolution with several others was sent by the convention to the Congress of the United States for action at its initial session.

¹⁶ *Ibid.*, 51. William Plumer, Sr., was said to have Deistic beliefs.

¹⁷ *Provincial and State Papers*, X, 17.

Movement Toward Separation

The Constitution of 1784 required the legislature to review every seven years the need for a specially elected convention to consider constitutional revision. The legislature rarely decided that such conventions should be held. Only one was called before 1800, and only three in the nineteenth century, though five have met during the twentieth. The first sat at Concord in 1791, at the end of the first seven-year period.

Constitutional Convention of 1791

Some people were dissatisfied with the constitutional arrangements of 1784, but for opposing reasons. Plumer and his school of thought desired to eliminate the sixth article of the Bill of Rights. Others would have made it even stronger. The first proposal which aroused any discussion was this controversial religious clause. Someone made a motion to erase it "in order to substitute another in its stead." Although the article was debated extensively and certain alterations proposed, the convention voted overwhelmingly, 89 to 15, to defeat the motion to eliminate it.¹⁸

The age-old problem of how one gets released from his responsibilities of supporting the church and the ministry was next considered. To clarify the point for the citizenry of the state, the convention proposed that a clause be added to the sixth article. The added section merely spelled out what was then standard operating procedure, the amendment proposing that anyone who dissented from the established church should enter this dissent at certain specified times. (Otherwise he should be bound by the majority vote of the town or parish.) Again it should be observed that the convention assumed that people should support religion.

And whenever a minister is settled by any incorporated town or parish, any person dissenting, shall have liberty either at the meeting or previous to the ordination of the minister, or within one month after the vote obtained for his settlement, to enter his dissent with the town or parish clerk against paying or contributing toward the support of such minister; & all minors, who after such settlement shall come of age,

¹⁸ *Ibid.*, 41-42.

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and all inhabitants of such town or parish who are absent from the same at the time of such meeting or settlement, and all persons who after such settlement move into such town or parish to reside, shall have three months from the time of their coming of full age, returning into town or moving in to reside, as aforesaid, respectively, to enter their dissent with the town or parish clerk as aforesaid.

And all persons who do not enter their dissent as aforesaid, shall be bound by the major vote of such town or parish, & it shall be considered as their voluntary contract: But all persons who enter their dissent as aforesaid shall not be bound by the vote of such town or parish, or considered as party to such contract, or in any way be compelled to contribute towards the support of the minister, nor shall any person be compelled to contribute towards the support of a minister who shall change from the sect or denomination of which he professed to be when he settled, to any other persuasion, sect or denomination.¹⁹

This proposal, the first of the seventy-two submitted to the people, was overwhelmingly defeated, 3,993 to 994. No other proposal received a worse buffeting from the populace. The voters did not care to have a procedure for *not* supporting the established ministry written into the fundamental law of the state. On the other hand there were some citizens who opposed the amendment because it put a man on record as to where he stood on matters of religion.

In one other respect the convention took a stand on religion which is quite unexpected. It proposed three amendments to the Constitution which would have eliminated the Protestant qualification for elected officials. This action, together with the proposal to strike out the sixth article, demonstrated the liberal tendency of the convention as a whole. At the polls, however, there was an insufficient number of votes to erase the Protestant bias.²⁰

<i>Number of Amendment</i>	<i>For</i>	<i>Against</i>
15 (For senators)	2,300	1,500
25 (For representatives)	2,406	1,255
31 (For Governor)	2,203	1,454

The more important the office, the less sure the people were about giving the official freedom of conscience.

¹⁹ *Ibid.*, 114-15.

²⁰ *Ibid.*, 141-42.

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These results were not accidents. They represent fairly well the thinking of the times. Two decades of constitution-making provided ample opportunity for the people to understand the issues. The sides were clearly drawn. Stackpole points out that William Plumer proposed an amendment which would have secured to each person the privilege of worshipping God “. . . in a manner agreeable to the dictates of his own conscience.” Plumer’s design was clear; he often expressed it. He would have done away with all compulsion in matters of religion and would have left every man free to be “Protestant, Quaker, Roman Catholic, or Deist, if he so chose.”²¹ Failing to get an affirmative vote in this effort, he led the fight to abolish the religious test for office-holders. Even though he failed on the first trial, he persisted long enough to get the convention to change its mind and adopt a proposal based on his viewpoint. But the people simply were not ready for a broad approach to the rights of conscience. They were too close to the traditions of the eighteenth century and persisted in retaining the ways of their fathers, assuming no doubt that these were the ways of religious freedom. In fact, as has been mentioned in the preceding chapter, the General Court had in 1791 passed the act which continued the policy of town control over matters of religion and over the establishment of a supported minister. In a sense, then, the vote upon the amendments was a stamp of approval for the work of the 1791 legislature.

The division of thinking noted in the conventions of the eighteenth century was to reappear consistently in those of the nineteenth. Because of this the sixth article could not remain unchallenged. Nor could the religious test be ignored.

Constitutional Convention of 1851

The convention of 1850–51 submitted to the people fifteen proposals, two of which were the now familiar religious questions:

1st. Do you approve of the bill of rights as amended by the constitution?

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²¹ Everett S. Stackpole, *History of New Hampshire*, IV, 260.

8th. Do you approve of the abolition of the religious test and property qualification, as proposed in the amended constitution?²²

The convention reworded the sixth article slightly, inserting three changes to lessen the tensions aroused by the original. The first of these, "As morality and piety, rightly grounded on the principles of the Bible . . ." replaced "As morality and piety, rightly grounded on evangelical principles. . . ." Roman Catholics and the non-evangelical Protestant sects could more easily accept this revised wording. The second change provided that the religious societies should make adequate provision at their own expense for "the support and maintenance of public teachers of piety, religion and morality." The word "Protestant" was thus dropped from the original, "public Protestant teachers." The last change, perhaps legally the most important, stated "every religious denomination demeaning themselves quietly, and as good subjects of the State, shall be equally under the protection of the law. . . ." This would have been a marked improvement over the original which stated that "and every denomination of christians, demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law. . . ." It would thus, without question and without possibility of dubious legal interpretations, have brought all citizens regardless of religious affiliations under equal protection of the Constitution and the laws of the state. Sound as the changes may appear to the twentieth century, however, in 1850 they were to no avail. The people rejected all of the proposed changes and the old remained in effect.²³

A separate proposal, the eighth of the 1851 convention, provided for the abolition of the religious test and the property qualification in one fell swoop. By a vote of 13,834 for and 25,670 against, this too was rejected. The convention, when it reconvened to study the results of the voting, decided to resubmit three new amendments to the people. These were, in fact, revisions of several of those which had been rejected. The con-

²² James F. Colby, *Manual of the Constitution of the State of New Hampshire*, 196ff.

²³ *Ibid.*

vention members recognized their mistake in joining the religious test to the property test in the recent referendum. One of the revisions proposed that both the word "Protestant" and the qualifying clause "shall be of the Protestant religion" should be struck out of the constitution. Another recommended that the property qualification be eliminated. The latter was speedily adopted by a vote of 15,297 for and 5,799 against, far above the necessary two-thirds majority. On the other hand, the religious qualification ran afoul of vigorous opposition and was beaten, 9,566 for and 12,082 against.²⁴

It is difficult to understand why a people rejected what the convention supported so completely. One searches almost in vain for clues as to why the delegates stood so firmly for the elimination of religious intolerance and twice made their position clear to the electorate in the two-year period, while their constituents stood just as firmly for the retention of the religious test and the bias of the sixth article of the Bill of Rights. The reason given in several of the state's papers was a general one, the supposition being that the people were revolting against the convention's long duration and its many recommendations. While there may be some truth in this, it does not wholly hold water. When the people had a chance they wiped out the property qualification and retained the religious test.

A glance at some of the discussions at the convention may throw some light on the thinking of the period. In keeping with his position as one of the state's leading citizens, Judge Levi Woodbury stood firmly for creating equality among all sects.

. . . each sect should enjoy and it does not enjoy here, the privilege to hold property. If to hold that, why not to protect it by laws, which each helps to make? It concedes to each sect the right to sue for injuries to character, for injuries to children and wife, and to worship God in freedom. Why not then let them aid in legislating to protect all these? You hold out the husk, but withdraw the kernel. You allow fire arms, but neither gunpowder nor lead to load them and make them effective. In the bill of rights you pledge also to all sects equality, but afterwards by this test you make all but protestants unequal. You promise entire freedom of conscience to all and treat it in the 4th article as so high a

²⁴ *Ibid.*, 205-16.

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privilege as not to be in any way unalienable [sic] and yet you leave others than protestants defenceless as to it by disfranchising them from filling offices to secure it by legislation.²⁵

Franklin Pierce, chairman of the convention, later supported Woodbury's views with comments to the effect that the delegates were merely giving expression to what in reality had been a fact long before. He rejoiced that the proper occasion had at length arrived for constitutional change.²⁶

In spite of the logic of Woodbury and the optimism of Pierce, there were those at the convention who expressed a contrary view. Presenting their case at one session was Enoch Cass, a farmer from Holderness, who delivered an emotional speech in which he laid bare his complete opposition to the Catholics,²⁷ on the alleged grounds (here summarized) (1) that the number of Catholics was sharply increasing in the state, (2) that Catholics once in power would persecute unto the death all who opposed them, (3) that nunneries and Catholic schools were increasing all around the state and were teaching their children that the rest of the people were heretics, (4) that Catholics were opposed to republican principles, and (5) that there was danger of rule by the pope and the Church of Rome.

In the absence of better evidence it must be assumed that Cass represented the thinking of a sizable proportion of the state's voters. While the Catholics were not yet numerous in New Hampshire, their numbers were beginning to be felt and their missions were being established in all parts of the state. The convention of 1851 and its aftermath reflect New Hampshire's role in the spreading American nativism with its opposition to the Catholics and "popery." The burden of the remarks of Cass could have been read in a hundred journals throughout the country.²⁸

The *Patriot*, striving to overcome the opposition of the nativists, took its stand once more with the convention leaders. It found difficulty in conceiving of any sound reason for retaining

²⁵ *The Daily Patriot*, Concord, N.H., Thursday, November 14, 1850, 2.

²⁶ Anonymous, *Whig Falsehoods Exposed*, New Hampshire Historical Society (undated pamphlet), 4.

²⁷ *The Daily Patriot*, Wednesday, December 11, 1850, 2.

²⁸ Ray A. Billington, *The Protestant Crusade, 1800-1860*, 345-67.

in the New Hampshire Constitution a religious test as a qualification for public office. In its concluding words the editorial made the result appear like a foregone conclusion: "And since it is useless, and is everywhere regarded as a reproach and a blot upon the character of our people, we hope they will avail themselves of this opportunity to remove that stigma by adopting this amendment."²⁹ Yet Pierce, Woodbury, and the *Patriot* proved to be wrong. During 1851 and 1852, at least, the emotional pleadings of such as Cass prevailed over the calm and reasoned logic of a Woodbury, leaving the blot of the religious test to be removed by another generation.

As a matter of fact the constitutional convention came at the wrong time in history. Nativism as it was expressed in the Know-Nothing movement in the early 1850's was on the rise. The intolerant movement which offered to native Americans war upon Catholics, foreigners, and popery inflamed many New Hampshire people, causing them to lose their reason. In 1855 so many people had flocked to the movement that they were able to elect a Governor of the state.³⁰ 1852 was simply not the time for the people to deliberate calmly about the fairness of a constitutional restriction which barred a large segment of the population from holding public office.

Rooting the New Tradition in Law, 1876

The sixth constitutional convention for New Hampshire convened at Concord in December, 1876. Again the problem of attempting to separate church and state played a prominent part in the proceedings. Of the thirteen amendments prepared by the delegates, three were directly concerned with the affairs of church and state. The journal of this meeting is much more complete than is any of its predecessors and the reader can get much better insight into the forces which motivated the men in attendance.

²⁹ *The Daily Patriot*, Wednesday, February 11, 1852, 2.

³⁰ Billington, 388ff.

Failure—Article 6, Bill of Rights

The age-old problem, Article 6 of the Bill of Rights, raised its head early and again revealed the sharp cleavage in society. The majority was not ready to obliterate all distinctions among Roman Catholics, Greek Orthodox, Protestants, and non-Christians. The following illustrations from the debate show some of the shades of opinion:

Mr. Sargent of Concord: But the whole tenor of this article is that all denominations shall stand equal . . . before the law . . . I do not understand that this section raises the question as to the religious test. I do not care particularly whether it is stricken out, or whether it remains. I have no objection to its remaining. It shows our fathers had a leaning toward Protestantism. Although they did not deny anybody else the same privileges, they simply said that they might provide for Protestant teachers; but they did not say that they should not provide for any other and different kind if they chose, with equal rights.

Mr. Burrows of Plymouth: It seems to me the question before the committee is, if the word does not do any good, or hurt, then there can be no harm in striking it out,—which will show somewhat of liberality. . . . It occurs to me that it should be stricken out, and then we should all know there can be no question about it.

Mr. Gallinger of Concord: A single word. I favor the striking out of that Word "Protestant," for the reason that I think it establishes a state religion—something that I certainly do not believe in. And I really think there is an inconsistency in the language we have in these articles. We have, in Article 4, a declaration that the rights of conscience are inalienable; we have, in Article 6, a statement that our public teachers must all be Protestant . . . and then, in the closing . . . we have the statement made, that no one sect shall be subject to another sect. . . . I am opposed to the state recognizing any system of any belief; and for that reason . . . I shall certainly vote to strike out the word "Protestant" from that clause in our Bill of Rights

Mr. Sturoc of Sunapee (introduced at this point the following resolution): Resolved, That it is the opinion of this convention, that all of Article 6 of the Bill of Rights be struck out, except the following: "Every denomination of Christians, demeaning themselves quietly and as good subjects of the state, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."³¹

³¹ New Hampshire: *Journal of the Constitutional Convention of the State of New Hampshire*, 1877, 32-34.

In presenting this resolution Sturoc stated that he was trying to bring the original article up to date, eliminating what had been superseded by time, or what was contradictory, or what was repetitive of other parts of the Constitution. "The simple object," he concluded, "is to strip away all that has become positively obsolete, and that is simple repetition of some other part of the Bill of Rights."³² This resolution provoked anew bitter debate and opened for our view some of the emotions which were guiding the minds of New Hampshiremen.

Mr. Morse of Portsmouth: I do not think we ever found any difficulty, or any one has ever found any fault, with the article as it stands. It certainly does no one any injury, we never received any disadvantage from it, and everyone is satisfied.

Mr. Mason of Moultonborough: If you will go through this convention, and inquire of every particular member, you will not get two thirds to believe it is proper to make any change in the article. That word "Protestant" makes no war upon any denomination whatever. . . . It is simply there to express the regard of the people of New Hampshire for religious institutions. The word "Protestant" harms nobody. It enacts nothing. It is no law whatever. But if you take that word "Protestant" out of this article, and send it to the people of New Hampshire, we all know how many there are who are rather sensitive on this point, and they will reject it at once³³

Whether or not we like Mason's reasoning process or his opinions, we have to admit that he proved a good prophet of things to come.

Mr. Barton of Newport: I have read the Bill of Rights, but I never heard it read so well, nor did it ever sound so good as it did whilst being read today. I am at a loss to know what the gentleman from Sunapee would have. It is true, that perhaps this preamble might be amended, and it would be all well enough Now is it not true, Mr. Chairman, that "morality and piety, rightly grounded on evangelical principles, will give the greatest and best security to government"; isn't that true? "And will lay in the hearts of men the strongest obligations to due subjection;" isn't that true? "And as the knowledge of these is most likely to be propagated through a society by the Institution of the public worship of the Deity, and of public instruction in

³² *Ibid.*, 35-44.

³³ *Ibid.*

morality and religion;" isn't that true? And to the end of it, isn't it all true? Then why do we wish to meddle with this, at this time?

Mr. Gallinger of Concord: . . . Well, now, our friends the Unitarians, Universalists, and some of the Episcopal persuasion, do not view it in that light; they are not "evangelical." I think our Bill of Rights in that particular is inconsistent, and it ought to be stricken out . . . I hold in my hand a scrap from a newspaper, representing one of the largest denominations in this country, and I presume they have the same rights of a political and religious nature that I have, or the gentlemen of this convention have; and yet the editor of that paper says, after quoting Article 6th, "it is hardly to be believed that the men who laid down this broad platform of Article 2d, displayed their narrow spirit by making Protestantism the state religion, in Article 6." This is precisely my position . . . and I shall like to see the entire matter stricken out and put upon a basis that all men can support.³⁴

Such is some of the thinking of the 1876 convention.

Those who recommended change did so on the grounds that the constitution was inconsistent, that it was outmoded, that it established Protestantism as a state religion, and that it appeared to deprive some citizens of equal protection of the law. Those who opposed change did so on the basis that the present article was not being applied anyway, that the people would not stand for any change, that the "evangelical" way was the true way, the New Hampshire way, that the present wording did not hurt anyone, that they preferred to preserve the traditional language of the founding fathers.

The convention thereupon by a vote of 129 to 144 failed to pass Sturges's resolution to simplify Article 6. The proposal finally sent to the people stated simply—"Do you approve of striking out the word 'Protestant' in the Bill of Rights, as proposed in the amended Constitution?" Even this watered-down approach to the controversial article was insufficient. By a vote of 27,664 to 15,903 the amendment failed once more to get the necessary two-thirds majority. Upon a question with so many religious and emotional undertones, obtaining a two-thirds majority seemed beyond the power of these mortal men. It is surprising that the vote was so close to the necessary amount.

³⁴ *Ibid.*, 36-40.

Success—Removing the Religious Test

The second issue before the 1876 convention was the religious test. Unlike the previous question, this stirred up little debate. The convention, at least, was in accord that New Hampshire had outlived the requirement that the state's elected officials should be professed Protestants. The question put before the public was "Do you approve of abolishing the religious test as a qualification for office, as proposed in the amended Constitution?" Less than a thousand more citizens approved this proposal than approved the amendment to revise Article 6 of the Bill of Rights, but the number sufficed to change the Constitution. By a vote of 28,477 to 14,231 the amendment obtained its two-thirds majority and narrowly squeaked through. The odious religious test had finally been eliminated as a requirement for public office.³⁵

A New Approach—Limiting the Spending Power

Before the convention ended, Hall, a delegate from Manchester, injected a new issue into the meeting. This representative from the center of the growing Catholic population introduced the following resolution:

In Article 83, after the word "country," insert the following: "Provided, nevertheless, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination."³⁶

The fear was obvious. The Catholic population in New Hampshire was growing by leaps and bounds. Whereas in 1835 the Roman Catholics had numbered only 720, at least three churches were organized in the 1840's, seventeen in the 1850's, six in the 1860's, and so on. In 1884 Pope Leo XIII created the new See of Manchester with a Roman Catholic population of approximately 45,000. The total population in New Hampshire, according to the official 1880 census figures, was 346,999.³⁷

While Hall did not put this statistical information into words,

³⁵ *Ibid.*, 224-26.

³⁶ *Ibid.*, 124.

³⁷ Historical Records Survey, WPA, *Inventory of the Roman Catholic Church Records in New Hampshire*; Stackpole, IV, 244.

his implications were clear. His amendment was designed, he stated, to prevent the appropriation of any money raised by taxation for purposes of sectarian education. He asserted that the causes which in other states were operating to give public funds to sectarian schools and institutions were in operation in New Hampshire. "Twenty-two states," he said, "have seen the necessity, or the wisdom of adopting similar amendments to their constitutions."³⁸

Several delegates quickly presented their resolutions, some to enlarge the scope, others to narrow it, others to make the resolution more specific in its language. Some feared this amendment might affect the reading of the Bible in the public schools, or that certain rights of property might be impaired. When the smoke had cleared, the convention had rejected all changes and had adopted Hall's original statement, which it submitted to the people in the following manner:

Do you approve of the proposed amendment prohibiting money raised by taxation from being applied to the support of the schools or institutions of any religious sect or denomination, as proposed in the amended Constitution?³⁹

Overwhelmingly the public responded. There was no question as to the will of the people. By a margin of more than five to one, they voted their approval, 35,838 to 6,606. Of the thirteen amendments submitted to the people this struck the most responsive chord.

Thorning, a Catholic writer, reacts bitterly at what he labels the "time-honored method of compromise" by "the opponents of religious freedom," who "would not yield until they could take back to their constituents guarantees that Catholic schools would never receive their share of the tax for the support of their religious schools."⁴⁰ What he is asserting is that the delegates reasoned that if Catholics were allowed to hold public office there had to be some guarantee against the possibility of Catholic schools using public funds. This reasoning may well have been that of some of the delegates. Yet such an approach was not

³⁸ Colby, 124ff.

³⁹ *Ibid.*, 226.

⁴⁰ Thorning, 212ff.

necessarily the only one, as Thorning would have had his readers believe.

The delegates may have reasoned along quite different lines. Some of them may have been striving to get the state out of religious affairs. Following this line of thinking they could have drafted three amendments, one to eliminate the religious bias from the Bill of Rights, another to erase the religious test, and a third to make sure that public funds would not be used to foster sectarian interests. Memories of involved town meetings still lived in the minds of many of them. The last amendment could have been introduced because men who were familiar with the history of the first two decades of the century feared bickering over school funds would have the same disastrous results for community harmony as the pastor's tax had had at the beginning of the century. The concept of separating church and state had a real appeal for some of the delegates.

Stalemate in Constitutional Revision

Convention of 1889

Since 1877 the Constitution, so far as its religious clauses are concerned, has remained unchanged. Efforts have been continued to revise Article 6 of the Bill of Rights, but to no avail. In 1889 a vigorous effort was made to eliminate the "evangelical" and "Protestant" bias of that controversial section. Again the convention tried to give each religious sect and denomination equal protection of the law. Samuel Felker put the case quite simply:

The word "Protestant," is distasteful to some. They are entitled to as much consideration as we are. Suppose "Catholic" were here, instead of "Protestant," would it not be just as distasteful to us? Ours is the last State in the Union that retains any such article in its Bill of Rights, and it seems to me that it should be changed so as to give everybody equality in the matter of religion.⁴¹

This time the convention presented its resolution in the following manner: "Do you approve of amending Article 6 of the Bill of

⁴¹ Colby, 226.

Rights making the same non-sectarian, as proposed in the amended Constitution?" The people's answer was still the same; in fact the voice of opposition was stronger. Whereas a little over a thousand more affirmative votes would have sufficed in 1877, by 1889 the positive note was less clear. The amendment failed once more, 27,737 affirmative votes to 20,048 negative ones, far short of the necessary two-thirds majority. Again the liberal spirit of the convention failed to strike a responsive chord among the populace. As Thorning put it, "There had been no growth, but retrogression in the spirit of religious liberty."⁴²

This time it could not be said as it had been in 1851 that the people opposed the proposal simply because they were against change or were opposed to the usurpation of power by the convention. Of the seven proposals presented to the people, five were adopted. The only other negative reaction concerned an amendment to prohibit the manufacture and sale of intoxicating beverages.

Convention of 1902

Following the turn of the century the Convention of 1902 was called and as usual Article 6 was reviewed. The same arguments appeared as in 1850, 1876, and 1889. This time it was Aldrich of Littleton who spoke as the protector of tradition and the original Constitution.

The . . . question and the important one is, whether this convention shall take a backward step and allow the Jews or the pagans, or the Mohammedans who come into this country, and who enjoy all the privileges of our institutions, to force us to renounce the great principle which has always been recognized in this country—the principle that this nation and state is rightly grounded on Christian principles, a principle which contra-distinguishes our institutions from nations, for instance, founded on Mohammedan or pagan principles.⁴³

These threats which Aldrich pictured for his audience were practically invisible. The Jews were but a handful, the "pagans and Mohammedans" hardly to be found.

Following the usual exchange of opinion, theory, and fantasy,

⁴² Thorning, 218.

⁴³ New Hampshire, *Convention to Revise the Constitution, Dec. 1902*, 619.

the convention defeated the proposal to eliminate the word "Christian" from the proposed amendment. On the other hand the delegates also agreed that "evangelical" and "Protestant" did not belong in a twentieth century document. What they finally submitted to the public read as follows:

Do you approve of amending the Bill of Rights by striking out the word "evangelical" before the word "principles" and inserting the word "Christian" and striking out the word "Protestant" before the words "teachers of piety, religion and morality," and striking out the word "towns" in two places where the legislature is empowered to authorize "towns, parishes, and religious societies" to support and maintain teachers of religion and morality; and striking out the words "and every denomination of Christians" and inserting "all religious sects and denominations" where equal protection of the law is assured;—as proposed in the amendment to the Constitution?⁴⁴

Whether or not there was difficulty in understanding this long and involved question is not clear. However, in a decision which attracted 15,000 fewer votes than in 1889, the state rejected this latest attempt to revise Article 6. The basic law of the state stood intact as only 16,611 voted "Yes" and 15,727, "No."⁴⁵

Convention of 1912

The events of ten years later almost duplicated those of 1902. Again the convention recommended that the sectarian words "evangelical" and "Protestant" should be removed from the Bill of Rights. Metcalf reported in *The Granite Monthly* that in a poorly attended session the Committee of the Whole reported favorably an amendment, introduced by French of Nashua.⁴⁶ The condition, which Stone of Andover called a "disgrace to the intelligence of the people of New Hampshire,"⁴⁷ was again called to the people's attention. The parallel with 1902 persisted; the people were not even interested enough to consider Article 6 a real issue. Only 16,555 voted "Yes," and 14,315, "No."

⁴⁴ *Ibid.*, 814.

⁴⁵ *Ibid.*, 815.

⁴⁶ H. H. Metcalf, "The Constitutional Convention of 1912," *The Granite Monthly*, June-July, 1912, 185.

⁴⁷ New Hampshire, *Journal of the New Hampshire Convention, 1912*, 276-77, 612-13.

The tenacity of purpose of those who desired to revise the religious clause in New Hampshire's Bill of Rights deserved a better fate. In 1918 the proposed amendment to strike out "rightly grounded on evangelical principles" and the word "Protestant" created no great stir either at the convention or at the polls. The addition of women to the electorate made no apparent difference. Tradition and prejudice had again united to retain the Protestant bias in the Constitution.⁴⁸

Writing in the venerable state magazine, *The Granite Monthly*, some time after this action, Elias Cheney called upon his fellow citizens to face reality. "One more effort should be made, and the people earnestly appealed to, to vote it, to blot out that word 'Protestant' and the words 'of Christians' in Article 6 Bill of Rights." He felt that it needed the action of more than the convention; rather there had to be a campaign throughout the state to inform the citizenry that they were retaining dead letters, that a new day had dawned and that the citizenry should take cognizance of it. "We do and we ought to and we are forever going to protect alike Jew, Catholic, Protestant, Agnostic and whatever other religious belief and practice or non-practice. Everybody here should have the right to worship God according to the dictates of his or her own conscience; religion or non religion is a matter purely between the individual and God." His final admonition was that New Hampshire's Constitution should really tell both the fact and the spirit of the law.⁴⁹

Conventions of 1930, 1939 and 1948

In spite of Cheney and other like-minded statesmen, the eleventh constitutional convention in 1930 did not care even to face the religious issue. The journal makes no reference to any proposal or resolution to revise Article 6 of the Bill of Rights. Perhaps it was not even introduced into the convention. One wonders whether or not the previous presidential campaign, that of Smith versus Hoover, had led to a soft-pedaling of the religious issue in the Granite State.⁵⁰

⁴⁸ New Hampshire, *Journal of the New Hampshire Convention, 1918*, 107, 134, 376-77.

⁴⁹ Elias H. Cheney, "The Coming Constitutional Convention," *The Granite Monthly*, April, 1924, 204.

⁵⁰ New Hampshire, *Convention to Revise the Constitution, 1930*.

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As with the eleventh convention, so with the twelfth. Nine years later, in May, 1939, the leaders of the state again gathered to consider the possible revision of the basic law of the state. The journal for this convention, like that of its predecessor, carried no reference to or any action upon Article 6 of the Bill of Rights. The thirteenth and most recent of the conventions, that of 1948, did little better than that of the previous decade. Eugene Daniel of Franklin at least raised the issue by introducing the following resolution:

Resolution No. 28: Resolved, Amend Part First of the Constitution by striking out Article 6.⁵¹

The president ordered that the resolution be printed and referred to the Committee on the Bill of Rights. This was the last heard of the resolution. What went on in the committee is not divulged in the journal of the convention. The committee, for reasons not apparent, deemed it either not feasible or not expedient to report any measure to the whole body of the convention.

Summary—The American Dream Unfulfilled

One gathers a sense of futility as he reads the journals of the several constitutional conventions. A fatalism seems to be developing that religious questions are to be avoided as issues which must be pushed back into the recesses of the mind. With this reaction there comes a sense of disillusionment with the people of New Hampshire. In the early days of constitutional development one can better understand the thinking of the populace. In the period 1780 to 1800 the people were almost entirely Protestant. They had come through a hundred years of rebellion against a narrow concept of the establishment of religion only to set forth in basic law a similar concept of the establishment of religion. In 1790 the people were speaking in the spirit of the eighteenth century. One must admit the soundness of the thinking of those who stated, "We are a Protestant people; why don't we say so?" It was true; they were! The Roman Catholics were oddities in those towns where they lived, scarcely numerous enough to notice, too few to hold public worship in any town of the new state.

⁵¹ New Hampshire, *Convention to Revise the Constitution, 1948*, 48ff.

In following developments in the nineteenth century one begins to sense the fulfillment of the American dream. First Plumer, then Young and Whipple, and finally Hill and Woodbury raised giant voices against the sectarian viewpoint, first against the established tax-supported church, then against a religious test for office-holding, and finally against the archaic preferment expounded in Article 6 of the Bill of Rights. The Act of 1819 eliminated the town-supported church. Even before the people fully understood the revised law, Hill demanded that something should be done to wipe out the religious test. While progress was being made in that direction Woodbury called upon the people of good faith to practice the idea of the "Golden Rule," and in so doing to wipe out the Protestant bias in the Bill of Rights. Progress may have been slow, often almost at a standstill, but even with this slow advance one sensed a fulfillment of destiny as democratic man thought his way slowly to the next step toward separation and religious equality.

An interesting and perhaps significant development in relations between church and state in New Hampshire should be noted. The constitutional changes were agitated for most vigorously and were largely obtained before Roman Catholics were a force in New Hampshire society. Disestablishment came prior to the creation of the first Catholic church. The removal of the religious test evidences a spirit of fair play, because the Roman Catholics in 1877 were still a relatively small minority. At the same time there was in 1877 a much greater actual fear of an alien spirit in society—the Roman Catholic outlook toward the school, toward Bible teaching in the school, and toward public education in general—and this fear expressed itself in a constitutional restriction. This aspect, however, is better discussed in the general context of "Church, State, and Public Education" (see the next chapter). With 1877 the struggle to change the Constitution came to an end, even though the job was still unfinished. The several constitutional conventions which followed that of the centennial year of independence were sad commentaries on a society which had lost sight of the glory of the American dream.

V

Church, State, and Public Education

CONFLICT BETWEEN TWO TRADITIONS

DURING the colonial period New Hampshire followed the European tradition that closely linked both church and state and church and school. The later history of the Granite State is a story of conflict between that tradition and the American principle of separation both of church and state and of church and public educational institutions.

Education in the European Tradition

The first educational laws appeared while the New Hampshire towns were still under the Puritan influence, and these laws tended to set the pattern for subsequent legislation. The Massachusetts School Law of 1642, which applied both to the Bay Colony and to the province of New Hampshire, established the premise that a good education was essential to the well-being both of the individual and of the commonwealth. Secondly, it delegated to the towns, through their selectmen, the responsibility of enforcing the provincial mandate. In the third place the law stated what the legislators believed were certain fundamentals to be learned by all children, these being (1) to read perfectly the English tongue, (2) to gain knowledge of the capital laws, and (3) to be catechised in the grounds and principles of religion.¹ This act, however, did not make any real provision for town schools or for a provincial school system.

¹ New Hampshire State Board of Education, *Report*, 1923-1924, 42.

Act of 1647, Religious-Centered Education

This omission in the 1642 act of requirements for establishing and maintaining schools was quickly corrected in the Act of 1647, which demonstrated quite clearly the religious emphasis of the time:

ACT OF 1647

It being one chiefe project of that ould deluder, Sathan, to keepe men from the knowledge of the Scripture as in former times, by keeping them in an unknowne tongue, so in these latter times, by perswading from the use of tongues, so that at least, the true sence, and meaning of the original might be clouded by false glosses of saint-seeming deceivers, that learning may not be buried in the grave of our fathers in the church and comon-wealth the Lord assisting our endeavors:

It is therefore ordered by this courte and authority thereof, That every towneshipp within this jurisdiction, after that the Lord hath increased them to the number of fifty howsholders, shall then forthwith appointe one within their towne to teach all such children who shall resort to him, to write and read²

This second act laid down the premise that the town should establish the school, one which would help to thwart Satan and teach all children to write and read. The *Provincial Papers* do not present any reports or records to show how well the 1647 law was enforced. There is evidence that some of the towns took steps to educate their children along the lines suggested in the act. In Hampton John Legate was appointed in 1649 as the town's schoolmaster with a mandate to

. . . teach and instruct all the children of or belonging to our Towne, both mayle and femaile (wch are capiable of learning) to write and read and cast accountes (if it be desired) as diligently and as carefully as he is able to teach and instruct them; And so diligently to follow the said imployment att all such time and times this year insueing, as the wether shall be fitting for the youth to come together to one place to be instructed: And allso to teach and instruct them once a week, or more, in some Arthodox chatechise provided for them by their parents or masters.

And in consideration hereof we háve agreed to pay or cause to be payd unto the said John Legat the som of twenty pounds³

² *Ibid.*

³ Eugene A. Bishop, *The Development of a State School System: New Hampshire*, 20. Bishop is quoting from Hampton records of 1649.

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This basic agreement required religious instruction of all students. This probably would have occurred regardless of the law, for Bouton points out that among the teachers of the period were Daniel Maud, Congregational pastor at Exeter; Rev. James Parker of Portsmouth; Rev. Seaborn Cotton, Hampton; and Rev. Joshua Moody, Portsmouth.⁴ It would be difficult to imagine the ministry divorcing religion from education under their guidance.

Act of 1686

Following the separation from Massachusetts in 1679 the New Hampshire legislature passed its first independent educational enactment, which stated in part:

It is also ordered, That all Contracts, Agreements, and orders regularly made in any Town respecting either their Ministers or Schoolmasters as to their Maintenance . . . shall remain good and valid for the whole time that they were made for⁵

This act, which retained the concept of town control, was soon followed by the basic act of 1693, "An Act for Maintenance & Supply of the Ministrey and School within This Province." As mentioned earlier, this act set forth the fundamental relationship between church and state.

Act of 1693, Basic Law for a Century

This act, however, did more than outline the basic church-state relationship; it also provided for a religious-centered and church-controlled education for the whole of the pre-Revolutionary period:

And it is hereby further Enacted & Ordained, that for the building & repaying of meeting houses, Ministeres houses, School houses, And allowing a Sallary to a School Master in Each Towne within this Province the selectmen, in the respective Townes, Shall raise money by an Equall rate, and Assess't upon the Inhabitants, in the Same maner as in this present act directed for the maintenance of the Minister. And every towne within this province, Dover only excepted during the warr, shall from & after the publication hereof provide a school-master for the supply of the Towne, on penalty of Ten pounds per

⁴ Nathaniel Bouton, "Anniversary Discourse," *Collections of the New Hampshire Historical Society*, Vol. IV, p. 11.

⁵ *Provincial Papers*, I, 587.

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annum for neglect thereof, to be paid one halfe to their Majesties, the other halfe to the poore of the Towne.

John Usher,
John Gillman⁶

Thos. Davis, Secry, August 5, 1693

Acts of 1708 and 1716

Nor did the New Hampshire legislators stop here. In 1708 they created in Portsmouth a Latin school "for the Encouragement of Learning and Vertue," this for the students from the five towns of Portsmouth, Dover, Exeter, Hampton, and New Castle. The schoolmaster for this school was to be appointed by "his Excellency, Councill and settled ministers of the town."⁷ This last is worthy of more than passing note because this became the common practice, required in many subsequent legislative decrees, that the settled ministers of the towns were to be among the appointing officials when the towns found themselves forced to select new schoolmasters. Approval by the pastor, however, actually was the common practice before the passage of this act.

The expansion of the colony in the next few years led those on the edges of settlements to seek the creation of new churches nearer their homes. In like manner they agitated for the creation of schools. Again the public school followed in the path of the church, often with the minister as the schoolmaster. In 1716 the province voted that

. . . where any Parish is sett off from any town to maintain a minister by themselves, they shall have power within themselves to agree with a publick school-master and build or hire a School house, as they think convenient.⁸

Home authorities in England also took cognizance of the educational needs in the colony, because in the instructions to Governor William Burnett and to his successors they recommended that they "enter upon proper Methods in the Erecting & Maintaining of Schools in Order to the training up of Youth to Reading and to a necessary Knowledge of ye principles of Religion."⁹

⁶ *Laws of New Hampshire*, I, 560; *Provincial Papers*, III, 190.

⁷ *Provincial Papers*, III, 364.

⁸ *Ibid.*, 646; *ibid.*, XIX, 87.

⁹ *Laws of New Hampshire*, II, 434.

The particular religion was not mentioned. It must therefore be presumed that whatever was orthodox or acceptable in each town itself was to be fostered in that town's school.

Neither the crown admonition nor the legislative interest was sufficient to insure action upon the part of the selectmen. In 1721 the legislature stated that "the selectmen of sundry towns often neglect to provide Grammar Schools for their respective towns, whereby their youth lose much of their time, to the great hindrance of their learning"¹⁰ Bouton suggests that the laws did not necessarily mean careful attention to public instruction. He cites the following conversation with old Sam Welch, who had been born in Kingston in 1710 and died at Bow in 1823:

When you were young did you attend schools constantly?

No, I never went to school but one winter; then I had to go two or three miles and was almost tired to death when I got home.

What books were then used in the schools?

The Testament and Psalter.

Had you no spelling books?

No.¹¹

In the same address Bouton mentioned the reflections of a "venerable matron, now 100 years old," who stated that she had attended school only a few months. There she had "read in the New-England Primer, the Testament and Psalter." According to her, the Bible was both the reading book and the spelling book for the first or most advanced class.

Commissioner of Education Butterfield called the pre-Revolutionary period "one hundred fifty years of educational stagnation." As he saw it, the schools during this century and a half were not truly free schools as we know them today. They were taught by itinerant, untrained, or religious teachers for very short terms. Moreover, the laws were of limited application. Little thinking was done in relationship to public education. The laws of 1714, 1719, and 1721 merely reenacted previous legislation with no fundamental change. This, of course, is not surprising when one recognizes that New Hampshire was in the process

¹⁰ Bouton, 14.

¹¹ *Ibid.*, 15.

of breaking into the wilderness. This period, Butterfield states, was followed by "fifty years of legislative silence upon this 'grand and serious' thing."¹² This same thought is expressed by Bush. From his observations he concludes that reading and writing were the only branches of instruction taught in the common schools and the Bible and Psalter or *New England Primer* the only texts.¹³ This note of neglect is also sounded in the legislative messages of the last of the provincial Governors, John Wentworth.

In spite of the legislation on the books, the scanty evidence points only in one direction. There was little formal education for most of the children. What education there was followed the religious interests of the community. Added to this, the colonial legislation had strong religious coloring. Again and again it was emphasized that youth should be raised with a necessary knowledge of the principles of religion, these principles generally to be interpreted by the Congregational clergy.

The royal commissions to the colonial Governors tried to strengthen the ties between religion and education. Those of Benning Wentworth and his nephew, John Wentworth, stated that all schoolmasters should have the proper religious qualifications.¹⁴ Regardless of this admonition there is not much evidence to show that the governors pushed education very seriously.

Moehlman calls this period that of the New England "bibliocracy."¹⁵ While both education and religion were matters of state concern, education was clearly subordinated to the religious interest and made subservient to it. Texts were almost wholly religious in nature. The church and school, more often than not, carried on their activities in the same building under clerical direction. Bouton, writing early in the nineteenth century, bolsters part of this viewpoint. He writes with pride of his own part in educating the youth of the state.

It cannot be improper to speak of one who now in old age, receives the benedictions of many of our best and most distinguished citizens. He has personally instructed 155 pupils in his own house. Of this

¹² Ernest W. Butterfield, *Report of the State Board of Education*, 1924, 43.

¹³ George Gary Bush, *History of Education in New Hampshire*, 11.

¹⁴ *Laws of New Hampshire*, II, 627; III, 447.

¹⁵ Conrad H. Moehlman, *School and Church: The American Way*, 29.

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number 105 entered college. From 40 to 50 entered the ministry; 20 the profession of law; and 6 or 7 that of medicine.¹⁶

The religious approach of the eighteenth century was not confined to the sponsors of Puritanism. The following quotations from a letter written by Claremont's Episcopalian schoolmaster, Samuel Cole, tell their own story:

The number taught in School is 22, who were all baptized in the Church, exclusive of those four above-mentioned [Puritan dissenters]. Some of these are not constant at school; for their parents want the help of all that are able. I have had six belonging to dissenting parents awhile who allowed me to teach them some part of the Church Catechism¹⁷

He continued that some of the dissenters challenged his right to teach as he did, yet they were eager to send their children to his school to learn to read and write. He complained that they wanted him to teach the Westminster Catechism "and comply with all their humors." He then went into further detail to the Secretary of the Society for the Propagation of the Gospel in Foreign Parts to tell about his teaching procedures:

We assemble every Lord's day and I read such parts of the Common Prayer, the Lessons, etc., as are generally supposed may be done without infringing in the sacred function, and the church people constantly attend. We read Abt. Sharp's and Bp. Sherlock's sermons.

I would humbly beg of the venerable board some Bibles, Common Prayer Books, Catechisms, etc., to be distributed among my pupils which properly distributed might greatly excite them to learn—Samuel Cole¹⁸

Subsequently the society agreed that Cole should have for his school six Bibles, six New Testaments, twenty-five prayer books, and twenty-five Lewis Catechisms for the benefit of the children in his charge.

What Cole's letter demonstrates is that whether the school was dominated by Puritan or by Anglican, the emphasis was the same—instruction in the doctrines of the teacher's faith.

¹⁶ Nathaniel Bouton, *The History of Education in New Hampshire*, 26.

¹⁷ George Upham, "Pre-Revolutionary Life and Thought in a Western New Hampshire Town," *Granite Monthly*, May, 1922, 145-47.

¹⁸ *Ibid.*

Breaking Away from Sectarian Education

The war period likewise was a period of stagnation. Too many other matters dominated the thinking of the people and their government for public education to get much attention. Not until 1783 did the General Court get around to passing an act for the encouragement of literary matters.

Act of 1789, First Education Act of State Government

Schools, as such, received their first attention from the new state government in 1789 when the legislature empowered the selectmen to assess the inhabitants for school purposes. The money raised was to be expended for the sole purpose of keeping an English grammar school or schools for teaching reading, writing, and arithmetic. The schoolmaster, as in the provincial period, had to be certified as being well qualified, by "some able and reputable School master, & learned Minister, or Preceptor of some Academy or President of some College."¹⁹ Since the college presidents and academy preceptors tended to be persons with ministerial training, this act put the clergy in the position of being able to select "qualified" schoolmasters.

The same clause or its near equivalent continued to appear in New Hampshire legislation for the next three decades. Since sectarianism sharply increased during this period it might be assumed that the religious teachings in the schools took a broader Protestant view and had less of the rigid Congregational outlook. Lyford, in his *History of Concord*, however, suggests that this was not the case.

The text-books for many years were few in number and scarcely any two like, except the Testament and the Psalter, which were used for reading and spelling in the more advanced classes. The New England Primer was about the only book used by the younger pupils. They contained . . . the Shorter Catechism, "Prayers for the Young," general rules to incline children to lead pious lives, and religious verses like the "Cradle Hymn" of Dr. Watts. . . . The Catechism was the most distinguishing feature of the book. A preface to the reprint . . .

¹⁹ *Laws of New Hampshire*, V, 449. The act was called "An Act for the Better Regulation of Schools within This State; and for Repealing the Laws now in Force respecting them."

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says: "Our Puritan Fathers brought the Shorter Catechism with them, across the ocean, and laid it on the same shelf with the family Bible. They taught it diligently to their children every Sabbath" This "Shorter Catechism," for schools, was published by George Hough, Concord's first printer, in 1806, being a revised copy of earlier editions.²⁰

Act of 1808, Broadening of the Curriculum

The new education act of 1808 took a much broader view of the curriculum, in that it provided that taxes should be assessed for "teaching the various sounds and powers of the letters in the English language, reading, writing, English grammar, arithmetic, geography, and such other branches of education, as it may be necessary to teach in English School."²¹ The surprising element is that nothing is said about teaching religion. However, the act further stated that "no person shall be deemed qualified to teach any such school unless he or she procure a certificate from some able and reputable English grammar school master and learned minister of the gospel . . . that he or she is well qualified to teach such school; and likewise a certificate from the selectmen, or minister of the town or parish . . . that he or she sustains a good moral character" In addition it provided that the town school committee should visit its school and judge the progress in "literature, morality, and religion."

Purcell asserts that "it must have been quite impossible for a Catholic, and difficult for a non-Congregationalist, to win approval as a teacher during this decade."²² Since the number of Catholics was negligible at the beginning of the nineteenth century, however, his criticism as far as Roman Catholics were concerned is relatively meaningless. For the non-Congregational Protestants, such as the Quakers and Methodists, there was real restraint. Gabel cites the 1801 case of a Quaker school that was refused town funds.²³

²⁰ James O. Lyford, *History of Concord, New Hampshire*, II, 1218.

²¹ *Laws of New Hampshire*, VII, 771.

²² Richard J. Purcell, "Schools and Early Irish Teachers in New Hampshire," *Catholic Educational Review*, XXXII, December, 1934, 608-15.

²³ Richard J. Gabel, *Private Funds for Church and Private Schools*, 193.

Act of 1827, Sequel to the Toleration Act

During the next two decades the increasing sectarianism forced the state legislature to take a careful look at its church-state relations. First, as pointed out in the previous chapter, the people demanded and obtained the Toleration Act of 1819. The natural sequel to this, although it took almost another decade to make it law, was the School Act of 1827. While teachers still had to obtain clearance as to their good moral character, the act of 1827 specifically stated "that the said [school] Committee shall never direct any school books to be purchased or used in any of the schools under their superintendence, which are calculated to favour any particular sect or tenet."²⁴

This newly created superintending school committee had power to examine teachers, to visit and inspect schools twice a year, and to use its influence to foster school attendance—all of this in addition to its responsibility of inspecting and selecting textbooks. Evidently the General Court was of the opinion that religious freedom was being infringed upon so long as books in the schools fostered particular sects or creeds. This act is an important advance toward the tradition of separation of church and state; it was in reality the second major step. The first had taken place in 1819—the elimination of the tax-supported sectarian ministry. The intent in both cases was clear. The legislature believed that it was both destroying a cause for friction among the people and advancing the cause of religious freedom when it wiped out tax support of sectarian instruments in general.²⁵

Gabel, expressing a Catholic viewpoint, doubted that this "non-sectarian provision was properly observed in all districts, for the teachers had the task of inculcating principles of piety and justice and a sacred regard to truth"²⁶ He found it difficult to be-

²⁴ *Laws of New Hampshire*, IX, 663.

²⁵ Actually there had been a predecessor to the Act of 1827, perhaps a trial balloon. Almost exactly a year earlier the legislature had passed an act for the regulation and government of the schools in Portsmouth. That law, among its many parts, included the clause, ". . . Provided also that said committee shall never direct any school books to be purchased or used in any of the schools under their superintendence, which are calculated to favor any particular religious sect or tenet." The succeeding legislature copied this idea as part of the basic school law for the whole state. See *Laws of New Hampshire*, X, 100.

²⁶ Gabel, 193ff.

lieve that teachers could divorce themselves from their sectarian beliefs with the other mandates laid upon them. Again Gabel was undoubtedly correct in what he said. However, in deploring what is generally true of any new law which cuts across ancient traditions, particularly when those traditions are still cherished by a large part of the population, Gabel may have missed what Bishop presents so clearly:

It would seem that this is the first law in the history of the state in which a teacher is not required to have some credentials from a minister of the gospel in order to secure a certificate to teach. It marks the beginning of the end of that long period of almost two centuries in New Hampshire in which the minister was looked upon as the one most competent to judge of education, and school procedures and qualifications.²⁷

Like the Toleration Act of 1819, the act of 1827 required a period for adjustment. There had to be time for both understanding and acceptance to develop. It should be further noted that this was far from being solely a problem of Protestant versus Catholic. The real struggle in this part of the nineteenth century was between a powerful majority, led by the Congregationalists, which controlled town, church, and school, and the weaker minority sects, almost wholly Protestant, who were seeking both religious toleration and equal protection of the law. Therefore, it was not only a case of Protestant versus Catholic; it was Congregational versus Methodist, Baptist, Quaker, Episcopalian, and so on. Unitarians and Universalists were among the active agitators, along with the others mentioned above, for the concept of separation. In a larger sense minority Protestants were paving the way for equal justice for the Catholics and Jews, few of whom had yet entered the state of New Hampshire.

Education for Relatively Uniform Protestant Population

In 1847 the state's educational organization underwent a major revision with the establishment of the Office of the Commissioner of the Common Schools. This new official was required by law

²⁷ Bishop, 47.

to make a report each year (later they became biennial) on the common schools to the General Court. It is in these annual reports that one gets an inkling of the thinking of the state's educational leaders during the latter half of the nineteenth century.

Commissioner Haddock Calls for Religious Education

Upon assuming office as the first commissioner, Charles Haddock attempted to set forth his credo concerning the nature of public education. Basing his conclusions on the constitutional expression that "morality and piety rightly grounded on evangelical principles gives the best and greatest security to government,"²⁸ he observed that the revised statutes required that the youth should have impressed on their minds the principles of piety and justice. With feeling he called these "Noble sentiments! Worthy of the Constitution of a Free State, becoming the legislature of a christian people!"²⁹ Going further, he outlined the function of the public school in inculcating certain religious principles:

It is of great consequence to youth to be accustomed to recognize religious truths and practical moral principles in the society of their equals, openly, and frankly. In school this must be done; some useful principle, some important habit may be daily considered; the truth and authority of the Scriptures daily acknowledged; the practice of devotion and worship daily exemplified. In this way the universal conviction of our dependence on God and our common need of the mercy of his son Jesus Christ, and the duties which we owe to one another and to our country get inwrought in our common feelings.³⁰

Having set forth this function of the Christian public school in a Christian state, Haddock proceeded to outline a plan of action which was to be followed in the common schools. There should be, he said,

A very short and simple prayer, or, if the teacher do not feel authorized to lead in prayer, a portion of Scripture read either by himself or the

²⁸ *New Hampshire Constitution*, Article 6, Bill of Rights.

²⁹ *New Hampshire School Reports*, 1847, 3. From 1847 these reports are part of New Hampshire's public record. During the nineteenth century they included materials such as the commissioner's report, reports of the county commissioners, official textbook lists, reports from local school boards, accounts of institutes and teachers' conferences, copies of important speeches made at institutes and conferences, etc. Since these reports have been used extensively in documenting this chapter, for purposes of simplification, they will be referred to as *School Reports*.

³⁰ *Ibid.*, 24.

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school should open the exercises of the day. In the course of the day some vice, or virtue, or some principle of action, should be defined, and treated in a few words but so as to fix attention and awaken thought in the members of the school . . . ³¹

Summing up this report, as though to clinch his argument, Commissioner Haddock concluded:

The Fathers were right in assigning to [religious instruction] the first and the last place; and that, although the public school is not the place for sectarian books or sectarian influence, it is, emphatically, the place to hold up to the eye of youth the great distinctions of right and wrong, to inculcate the moral duties, to teach the future men of the country to fear God, to love their country, and to do good, as they have opportunity, to all men.³²

The commissioner was not alone in this thesis. It pervaded the reports of the several county commissioners during the fifties and sixties. It abounded in the comments of the local school committees whose short reports were incorporated into the commissioner's annual summary. For example, in 1849 the Deering school committee reported as follows:

Your committee have recommended to all the teachers in the several districts to instruct weekly from the decalogue, otherwise called the ten commandments; to have their pupils generally commit them to memory, if they are not already familiar with them This recommendation was made because these commandments embody the only true principles of all moral virtue and piety; and because the breach of any one of these commands is a violation of the civil law . . . ³³

In the same year the Manchester school board reported that scriptures were read daily in all of that city's schools.

School Leaders Continue to Urge Religious Education

Haddock's successor, Richard S. Rust, followed in the footsteps of his predecessor:

As a textbook of morals the Bible is pre-eminent, and should have a prominent place in our schools, either as a reading book or as a source of appeal and instruction. Sectarianism, indeed, should not be countenanced in the schools; but the Bible is not sectarian . . . the

³¹ *Ibid.*, 26.

³² *Ibid.*, 27.

³³ *Ibid.*, 1849, LXXIX (Appendix).

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Bible is not partizan . . . The Scriptures should at least be read at the opening of the school, if no more. Prayer may also be offered with the happiest effects.³⁴

In spite of these pious utterances of the first two commissioners, practice in the schools was often a far cry from the high expectations of the state's leaders. County commissioners continually deplored the lack of religious teaching in the schools. They bemoaned the fact that many of the teachers failed even to read the Bible. As Hall Roberts, secretary of the Board of Education, also a county commissioner, expressed it:

The voice of the religious teacher is heard in our courts of justice, in our halls of legislation, and even on the decks of our ships of war; and why should it be hushed in those places where the young and inexperienced congregate and receive their earliest and most lasting impressions. If the Bible is read without note or comment in the domestic circle, why should it not be read in the school circle? If its precepts mingle with the instructions of the former, why should they not with those of the latter?³⁵

The following year must not have improved matters, for Roberts enlarged upon the thesis he had expounded in his previous report. Again he deplored the fact that principles of morality and piety were not being taught. Like the commissioners before him he asserted that all efficient moral instruction "must be derived from the Bible." He appealed to the teachers to acknowledge the authority of the Bible and "let children . . . be taught to reverence the Bible as the book which teaches their duty, and from whose decisions there is no appeal."³⁶ To Roberts the teaching of the Bible was not a sectarian matter. Perhaps in answer to some of his critics he placed his defense in the concept of a oneness in the interpretation of the Bible. "All the sects," he asserted, "take the Bible as the foundation of their faith." As a final word he added, "And besides, the laws of the State expressly require this teaching . . . It is our duty to see that these laws are executed."³⁷

³⁴ *Ibid.*, 1850, 31-32.

³⁵ *Ibid.*, 1852, 6.

³⁶ *Ibid.*, 1853, 55ff.

³⁷ *Ibid.*

Yet with all of these admonitions, when the state board met, the county commissioners found it necessary to review the question of the teaching of the Bible in the schools. Even though each commissioner had in one way or another advocated the use of the Bible in his schools, even though the secretary of the board was convinced that all people interpreted the scriptures in the same way, even though moral teaching was required by law, all of them admitted that the teaching of morality and piety had not been successfully carried out in many of the schools. Secretary Roberts summed up their feelings as follows:

As to the use of the Bible in our schools, the belief was that it should be read at least once a day, and that, too, strictly for devotional purposes; that the selections be not wholly confined to the New Testament, but embrace, also . . . the Old . . . and that the exercises have particular reference to the wants of the school, and be so conducted as to awaken interest, and inculcate more fully than ever the principles of Christian morals.³⁸

What we have just noted was characteristic of the period between 1847 and 1859. The several commissioners of the common schools and their boards of education, comprised of the county commissioners, were consistently agreed as to what they thought should be taught in the public schools. Their heritage was essentially Protestant. Yet even with this relative unanimity of background and conviction, they were just as unanimous with respect to the difficulty they were having in fostering religious training in the public schools.

Protestant Bible Required in the Schools

One of the responsibilities of the State Board of Education was that of preparing each year an official list of textbooks to be used in the common schools. Heading this list each year was the Holy Bible. To be precise, they prescribed that the common version prepared by the American Bible Society should be the one used. Other than this, no religious books appeared on their official lists. In theory the commissioners were supposed to discuss general educational policy during their two meetings each year. In fact, probably more time was spent on making up book lists than on

³⁸ *Ibid.*, 1854, 6.

any other single function. Happily in 1859 the General Court repealed the act which required the board to recommend textbooks for the common schools.³⁹

In spite of the persistent attention of the State Board of Education to the matter of religious instruction—resulting in their inclusion of the Bible on the official book lists and their recommendations as to its use—the next decade did not bring much change in the matter of religious instruction in the schools. While several local boards asserted that the Bible was read in their schools and simple nonsectarian religious exercises were performed, the county commissioners were not convinced as to the quality of the religious and moral teaching. John Merrill, commissioner of Carroll County, pleaded to all who would listen:

Moral training must be made more prominent. The Bible, the book of God . . . must be made more a book of study and of moral precept. Teachers must be employed, and those only who are able to develop the moral nature, as well as to teach reading . . .⁴⁰

Nor did he stand alone. His words were echoed by Harry Brickett, his fellow commissioner from Hillsborough County:

The great want in our schools is moral and religious training—not in any sectarian sense—but a real and thorough training in those duties which pertain to a Christian citizen. We must, if we would succeed, give the Bible a prominent place among the textbooks in our schools, and allow it to remain clothed with the sanctions of Divine Authority. In our fear of sectarianism we are in danger of pushing all religious, and even moral culture, out of our schools, thus leaving the children, so far as the school is concerned, without any fixed principles to guide them Our great want in our New England mind, is reverence for sacred things, and recognition of God in public and private. Our

³⁹ Each of the *New Hampshire School Reports* during the 1850's carried a list of the school books which had been selected by the State Board of Education for the ensuing year.

During the first seven years of the existence of the office of county commissioner, thirty-six different men were incumbents. They represented the following professions: 1 farmer, 2 editors, 5 doctors, 8 lawyers, 6 teachers, and 14 clergymen. Of the clergymen the following sects were represented: 5 Universalists, 3 Trinitarian Congregationalists, 3 Free Will Baptists, 2 Baptists, and 1 Methodist. Since the office of county commissioner was considered a part-time position, all of these men were primarily dependent on their ordinary means of obtaining livelihoods. As the *School Report* for 1857 put it, "All have been active in their usual vocations and attended to this office as other pursuits permitted" (page 7).

⁴⁰ *Ibid.*, 1859, 19.

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schools need in them, to secure the greatest good they can accomplish, a larger infusion of the religious element.⁴¹

Subsequently several communities reported their adherence to the teaching of moral principles. Boscawen, for example, required its teachers to have their pupils "understandingly recite the Lord's Prayer, the Ten Commandments, and the Beatitudes."⁴² With all of this agitation, through two decades of state leadership, there is no evidence that anyone believed that the schools were doing a better job of teaching moral and religious principles.

The Catholic Influx and Religious Teaching

At the same time that the various state boards were attempting to have religious principles inculcated into the pupils, important social and religious changes were taking place, changes which were to make more difficult the teaching of religious principles in New Hampshire's schools. According to O'Gorman, the state—then a part of the diocese of Boston—had in 1844 two priests and 1,370 Catholics.⁴³

Growth of Catholic Population, 1840 to 1895

Soon thereafter the great stream of Irish began to flow into the southern towns, while French Canadians came in more slowly from the north. At least seventeen missions or parishes were established in widely scattered parts of the state during the 1850's. Among them were Conway, Gorham, and Lancaster in the north, Rochester and Somersworth in the east, Keene and Marlboro in the southwest, Lebanon and Littleton in the west, and Nashua and Milford in the south.⁴⁴ In other words, the migration of Catholics into New Hampshire affected all parts of the state.

This influx soon forced the hierarchy of the church to create a new diocese, that of Portland, in 1853, comprising Maine and

⁴¹ *Ibid.*, 1861, 65.

⁴² *Ibid.*, 1862-63, 135.

⁴³ Thomas O'Gorman, *A History of the Roman Catholic Church in the United States*, 384.

⁴⁴ Historical Records Survey, WPA, *Inventory of the Roman Catholic Church Records in New Hampshire*.

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New Hampshire. By 1866 the new diocese contained forty-five churches, twenty-nine priests, and 45,000 Catholic worshippers. Possibly because of the war, relatively few new missions or parishes were created during the 1860's. After the conflict immigration picked up. By 1884 New Hampshire was considered large enough to have its own diocese, and under the authority of Pope Leo XIII the new See of Manchester was established with a Roman Catholic population of approximately 45,000 adherents.

This increase in Catholic population becomes even more significant in terms of the changes in the total population. New Hampshire was standing still at mid-century. Whereas the population was 317,976 in 1850, it had increased just a few hundred to 318,300 by 1870. The small increase of the 1850's was practically wiped out by war and western homesteading during the next decade. After 1870 each of the next three decades brought an increase of about 30,000 persons; in 1890 the population reached a total of 376,530.⁴⁵ During these same years the growth and strength of the Manchester diocese presents a picture of amazing development and vitality. O'Gorman's statistics⁴⁶ speak for themselves:

No. of Bishops	1
Secular Clergy	72
Regular Clergy	8
Churches	65
High Schools (Boys')	6
High Schools (Girls')	6
Parochial Schools	64
Population	85,000

It was early apparent that this large non-Protestant minority believed that it should have important influence on what should be taught in the public schools. In 1869, in the *Manual for Officers of School Districts in New Hampshire*, the state began to face the question which must have been appearing more and

⁴⁵ *Statistical Abstract of the United States*, 1946. The population figures for the period under consideration are as follows:

New Hampshire—1840—284,574	1880—346,991
1850—317,976	1890—376,530
1860—326,073	1900—411,588
1870—318,300	

⁴⁶ O'Gorman, 481-86. Statistics are for 1894.

more pressing as Roman Catholics protested the use of the Protestant Bible and Protestant teachings in the common schools. the *Manual* first presented part of the law: "The school committee may direct a change of one of the text-books . . . but no books shall be introduced calculated to favor any particular religious sect or tenet." The interpretation which followed is even more significant than the law itself, for what it stated was revolutionary in its implications for New Hampshire public education.

In Massachusetts, where there is a statute directing the reading of the Bible and the inculcation of piety, it has been held that a committee may order the reading of the Bible and the bowing of the head by the pupils during prayer. Our statute makes no provision of this kind and prohibits the use of any book calculated to favor any particular religious sect or tenet. The Massachusetts statute says, "any particular sect of christians." With this difference in the statutes, it is questionable if the Mass. decision 12 Allen 127 would apply in our state, and it is doubtful if the committee, when objection is made, are authorized to enforce any religious exercises whatsoever.⁴⁷

This opinion, if followed by the school board and teachers in the local communities, could have led to the elimination of all religious exercises in the public schools of New Hampshire.

Growing Conflict Between Protestant and Catholic

Prior to the large influx of Roman Catholics there was little opposition to the idea of having religious exercises in the schools. While the schools may have failed miserably in having Bible reading and the repetition of the Lord's Prayer, there were few in the state who opposed vocally the having of such religious exercises. After the 1870's this opposition began to reveal itself. That it was having some effect is apparent by the reactions of the state superintendents of public instruction in their annual reports. Three different reports during the early part of the decade reflect the growing anxiety among those who were responsible for directing common school policy.

There is a class of persons who object to the reading of the Bible in schools, but we know of no valid reason why the reading of a portion

⁴⁷ *Manual for Officers of School Districts in New Hampshire containing the Law, Legal Decisions and Forms*, 1869, 49.

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of it daily should not be enforced as a general exercise. It is the only place in which some children ever hear it; and as for its being a sectarian work, the plea is merely a pretext of an illiberal or bigoted mind to make a diversion for no resulting good. Conscience has nothing to do with it, as of itself no particular tenets are assumed to bias any child's mind that any Catholic parent need to fear. No child could appreciate the difference in the different versions, and in but few phrases would the parents distinguish the contrast. It is not the language of the book itself, but paraphrases and comments upon it, that constitute the sectarian basis which should be objected to.⁴⁸

The second report, very similar in its thinking, is a little more explicit about some of the alleged dangers of attempting to placate a minority group in society:

One of the most important questions affecting the well-being of our common schools has lately been agitated, viz., whether it is desirable to retain the use of the Bible in the schools? For ourselves we are altogether in favor of such a course, for we believe that such use of the Scriptures not only exerts a wholesome moral influence, but imparts a beneficial intellectual stimulus.

Yet our interest in common schools would lead us to concede much, for the sake of conciliating those who might cherish views widely different from ours; and we would rather give up the schools altogether. But here is our difficulty. The great body of those who seek to drive the Bible out of our schools will be satisfied with nothing short of the substitution of denominational for common schools. Hence, if we give up the use of the Bible, we only weaken the common school system, by offending many of its warmest supporters, while at the same time we fail to conciliate its opponents, but only excite them on to further exactions.⁴⁹

The last of the three reports to the superintendent of public instruction, this one from the Newport school committee, gave short shrift to the idea that the Bible should be removed from the school:

The measure which is now struggling for a baneful ascendancy in our national politics, viz., that the word of God should be excluded from our public schools, must be trampled under foot as intending to defeat the very objects of education. The Bible is the fountain of truth, and

⁴⁸ *N. H. School Report*, 1871, 65. This first report is from the Keene school committee to the superintendent of public instruction.

⁴⁹ *Ibid.*, 305. Report of Richard Coleman, supervisor of Wilton common schools.

the basis of every valuable mental and spiritual acquisition, must be retained in our public schools.⁵⁰

The question of moral and spiritual teaching in the common schools was considered of such high importance that Professor J. B. Robinson of Tilton, speaking before the New Hampshire State Teachers' Association, raised the question, "How far should the State pursue the process of education?" As to religious teaching, he stated firmly that it should be furnished, but not by the state. "God has appointed the church for that purpose"⁵¹ As for moral teaching, he claimed this was the direct responsibility of the common school. "The state," he said, "should suppress immoral tendencies, as vile books and pictures; should insist upon good moral examples in all officials." Evidently he did not class the Bible within his previously forbidden religious instruction because he added, "It [the state] must have moral school-books, and hence must insist upon the full use of the Bible, without comment, as a book of morals in schools."⁵²

The next year Dartmouth's Professor Ruggles, also addressing the teachers, continued in the same vein. "The school is not an incipient theological seminary, but it should be Christian, based on the sublime truth of God's words, and we should look well to it that the Bible is not banished from our public schools."⁵³ Analysis shows that Robinson and Ruggles were following in the path of Hall Roberts, who had voiced the same sentiments for the State Board of Education a quarter of a century before. What all failed to recognize was that not all of the Christian sects used the same Bible or had the same interpretation of what the Newport committee called the "fountain of truth."

Separating Church and State in Public Education

In the meantime the people of New Hampshire had taken another decisive step in their slow struggle to separate church and state, particularly in the realm of public education. In De-

⁵⁰ *Ibid.*, 355.

⁵¹ *Ibid.*, 1877, 224-25.

⁵² *Ibid.*

⁵³ *Ibid.*, 1878-79, 209. Address to teachers' association.

ember of 1876 a convention was held in Concord to review the necessity for general constitutional changes and to make any necessary recommendations to the people. The thirteenth of the proposed amendments was the following:

. . . That no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination.⁵⁴

There was not much discussion of this clause at the convention, but the proposals for change appeared in the leading papers of the larger centers of the state such as Concord, Nashua, Manchester, and Portsmouth. In the main they were presented with little or no comment. Some of the editors, when they first printed the proposed amendments, stated that they would have more to say about them at a later date.

Surprisingly, however, the dailies were generally silent about the merits or weaknesses of the convention's suggested changes. The first significant comment in Concord came not as an editorial but rather as a quotation from an address by O. C. Moore printed in the *Independent Statesman*:

The proposed amendment prohibiting money raised by taxation from being applied to the support of the schools or institutions of any religious sect or denomination, can hardly fail to commend itself warmly to every friend of our noble free school system. It is true that no demand has been made by any sect for the support of its denominational schools from the public school funds; and yet the position of one numerous and powerful sect in the State on this question leads logically to such an issue. The highest authority in the sect, assuming to speak with the awful protentiality of infallibility, declared in the Encyclical letter of 1864 that Catholic parents had no right to educate their children in other than Catholic schools. In the most populous city of this State, for a dozen years, or ever since the issue of that letter, the children of Catholic parents have not been permitted to attend the public schools, but have attended sectarian schools exclusively. So long as any sect regards the public schools with hostility, the public school system is menaced with a danger that only a constitutional provision can avert. The free public school is the true nursery of freedom and equality With all its faults—and it has many—it is still the one influence that out of many nationalities moulds one nationality;

⁵⁴ James F. Colby, *Manual of the Constitution of the State of New Hampshire*, 124. See the previous chapter for details of the Convention of 1876.

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that out of many faiths forms one faith in God and humanity; that out of weakness and ignorance and poverty emerges the strong, reliant, affluent and magnificent American citizen.⁵⁵

Lest this seem to prove Moore, the author of this address, viciously anti-Catholic, it should be stated that in the same speech he demanded that the religious test which was keeping Catholics from the holding of public office should be removed from the Constitution.

One might expect that the *Manchester Daily Union*, published in the center of the fast-growing Catholic population, would be very sensitive to Catholic reactions. Until almost the end of February it had not commented in one way or another on the constitutional issues before the people. Perhaps the Tilton-Hayes election, accounts of which filled all the dailies of the state, was most responsible for the lack of attention to New Hampshire issues. That disputed election, together with a murder trial which was reported almost verbatim in most of the state's papers, seized the attention of both the press and the public. At any rate, not until February 28 did the *Union* break its silence. In a lead editorial it listed the amendments, indicating for each how the editor intended to vote on that issue. Sometimes the editor found it essential to explain his vote, sometimes not. Insofar as the religious questions were concerned (there were three of them) he merely gave his "Yes" vote without any further explanation. He therefore would have removed the Protestant bias from the Bill of Rights; he would have eliminated the religious test as a qualification for public office; and he would have prohibited money raised by taxation from being applied to the support of the schools or institutions of any religious sect or denomination.⁵⁶

In subsequent issues the *Union* appealed to the voters to register, particularly because of the importance of local issues in several of the wards. Finally in the weekend just prior to the election, in a front-page article—a rare feature in that day—it made a direct appeal to the Catholic patrons to get out the vote:

⁵⁵ Address before the citizens of Suncook, January 5, published in the *Independent Statesman*, Concord, Thursday, January 11, 1877, 2.

⁵⁶ *Manchester Daily Union*, February 28, 1877, 2.

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CONSTITUTIONAL AMENDMENTS

THE RELIGIOUS TEST

HOW CATHOLICS SHOULD COME OUT AND VOTE

Among the proposed amendments to the Constitution of the State, to be voted upon next Tuesday, is the following, which is particularly interesting to those professing the Catholic religion:

"Do you approve of striking out the word 'Protestant' in the Bill of Rights?"

This clause in our State Constitution has long been a disgrace to the State and should have been wiped out years ago, for it is but a relic of the dark days of persecution and tyranny

. . . As the fourth article of the Constitution now stands Catholics are disqualified from holding office, and a disqualifying law on account of religion is a degree of religious persecution. Now it should be the duty of every liberal-minded citizen to vote against this rotten clause remaining longer in the Constitution, and it should be the duty of every Catholic to register his vote against the persecution leveled at them and thus blot it out forever. Rally for liberty, progress, honest men and honest laws! Put yourself on record for the right!⁵⁷

Perhaps the test issue was not so controversial as earlier and could be given support in a city which had a strong Catholic minority. So far as the actual vote was concerned in the Queen City, the religious test was more controversial than the use of tax funds for denominational schools. As in the rest of the state, the city voted strongly in favor of restricting public funds to public schools.

When the final results were tabulated in Concord early in April, it was clear that a vast majority of those who had voted opposed the distribution of state funds to religious sects or denominations. Whereas the religious test for office-holding was wiped out by a narrow margin (a half-dozen votes could have rejected the amendment), a vote of 35,838 to 6,606 was a solid mandate as to what the people desired concerning tax money and sectarian schools. At the same time the observer must be disappointed at the lack of pre-election public interest and discussion. The press had not performed its proper function of presenting the issues to the people. It had been content simply to state what the amendments were. For their part the people

⁵⁷ *Ibid.*, March 10, 1877, 1.

were strangely apathetic about them. Only half of those who voted for public officials were interested enough to vote on the constitutional questions which in the long run were far more important than any of the offices up for election in that year.

In perspective this last decision of the people at the polls is seen to be in keeping with previous actions. In the seventeenth century, church and school in New Hampshire had been treated as one, and the established church was supported by all the people. In the eighteenth, the struggle developed to allow other sects their places in society, even though the state, through the local town authorities, usually supported the Congregational order as the preferred establishment. In neither century did the school receive much attention.

In the nineteenth century, as support for the established church was gradually removed, there developed a different concept as to the main purpose of the common school. It could no longer be considered the handmaiden of the church, for there were many churches. While it still was considered the proper place to teach piety and morality, the people did not consider their common school the place to teach sectarianism. Thereupon they followed the Toleration Act with the law that sectarian books should be neither purchased by nor used in the public schools. At the same time, since the population was almost wholly Protestant, the people and the educational leaders saw no contradiction between the use of the Protestant Bible in the schools and the act of 1827 which outlawed sectarian books. Even with this contradiction between law and action, the trend was toward a nonsectarian school. The amendment of 1877, seen as part of this whole development, fits neatly into what might be called a logical progression.

Conflict Between Two Traditions

While the essential issues in the history of state, church, and public education in New Hampshire had been raised by 1880 and have now been presented, the events of the last twenty years of the nineteenth century should not be neglected. The great constitutional issues had been settled, at least for the time.

There were no emotionally charged legislative sessions. No longer did church-state relations take first place in the town warrants. On the surface all appeared calm. In spite of the composed exterior, all was not serene. Consistently throughout the remainder of the nineteenth century and into the twentieth the superintendents of public instruction allowed their deep disturbance to creep into their reports to the state legislature. Since the questions raised by these public servants are still with us, three quarters of a century later, they are well worth our attention.

Officialdom Opposes Parochial Education

In his report of 1888, Superintendent of Public Instruction J. W. Patterson began to raise the alarm about parochial education. While he granted that private organizations had the right to educate children in their religious tenets, he denied that they had the right to take away from the government the supervision of the general education of any large number of children. In this report he undertook to clarify the responsibility of the state in the education of the state's children:

The supreme allegiance of the citizen in all matters involving the safety and welfare of the political organization under which he lives, is to the State, and it is within the constitutional functions of the government to require that the youth of the land shall be educated according to the genius and spirit of the institutions which it will be his duty to support and defend. Other teaching than this is dangerous in its tendency and should have quietus at once.

Schools for the children of all sects, in a State that has no established religion should not, of course, teach the creeds and dogmas of any church. But they may and should inculcate by practice, precept, and illustration, the pure and unsectarian teachings of the great Master of Nazareth. Creeds and sects are too largely the offspring of human weakness, passion, and prejudice, or of the cherished traditions of an age outgrown, but Christian virtue is the birth of divine love, and planted in the heart of youth, is a safer antidote to infidelity than the technical theology of all the churches.

Our political and social institutions, like our civilization, are founded upon Christian ethics, and it would be both disloyal and fatal to exclude the teaching of a divine morality from the schools of a Christian commonwealth.

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From the genius of our institutions the public schools cannot inculcate the distinctive tenets of any subdivision of Christian faith, but that they are therefore hot-beds of agnosticism and atheism will only be asserted by a cowardly bigotry that does not dare to expose its beliefs to the untrammelled study of our free schools. Truth has nothing to fear.⁵⁸

As the state's first official in education, Patterson was claiming for the state a primacy which he thought was threatened by church-sponsored schools. (It is of more than passing interest that the public schools of his day were charged, as he states, with being "hot-beds of agnosticism and atheism." These same charges are leveled at public education three quarters of a century later.⁵⁹) Yet Patterson, with his careful development of his thesis, was just as blind as his predecessors who had lived in a Protestant society. He, like Haddock and Rust, failed to see that even for Christians the teaching of the life and lessons of Christ was often a matter of a sectarian nature.

Four years later Patterson returned to the same subject. Again he expounded his thesis that the public schools were the chief bulwark of the democratic state. Again he urged that the children of all religious groups should be educated in the state's schools. His direct and forceful language left no doubt as to what he considered dangerous to a system of free institutions.

This falling off of the attendance upon private schools is very suggestive. The maintenance of parochial schools by voluntary taxation is a needless and oppressive burden upon the hard-earned incomes of labor, and will not be tamely and blindly submitted to as a perpetual policy In this day and country such a load cannot be permanently saddled upon any class of population, by whomsoever imposed. Our schools must not inculcate the peculiar tenets of any sect, but whenever any organization, however ancient or powerful, undertakes to wrest from the State its right to educate its people, or attempts to engraft upon our system the effete politics of the dark ages, it will be time to call a halt. The schools and the army are the subjective and the ob-

⁵⁸ *N. H. School Reports*, 1887-88, 290-91.

⁵⁹ See front-page editorial in *Manchester Union-Leader*, "A Vote Against God," April 17, 1953. The General Court had just rejected a bill to provide released time to enable pupils to receive religious instruction. Among publisher Loeb's comments were: "This was a shameful vote. It was a vote against God!" and "Why would a group of God-fearing legislators want to perpetrate such an atheistic act?"

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jective means of national defense, and the government's power to control both rests upon the right of self-defense. To deny the right of the State to educate its children would be a denial of the right of the State to maintain its own existence. Public instruction is fundamental and essential in a system of free institutions and should be neither surrendered nor tampered with.⁶⁰

"The New Hampshire Catholic" Defends Sectarian Approach

The opposing viewpoint was expressed in *The New Hampshire Catholic*, a Manchester weekly, which purported to present the Catholic view to the people of New Hampshire. From an interview given wide publicity on both the editorial and news pages of the *New York Herald*, the editor, Charles O'Connor, extracted some of a certain archbishop's reactions to the same problem:⁶¹

The opposition of the Catholic Church to State schools, it must be borne in mind, is not against State schools as such, but against the manner in which State schools are generally conducted, which manner is perilous to Catholic faith and excludes all possibility of religious instruction.

Multitudes of children—the great majority of the children of the land—grow up without religious instruction. It is an airy dream to imagine that they are or can be instructed religiously in their homes or in Sunday Schools. Nor can we count on the remedy often proposed—of teaching in schools a common morality and a common Christianity. Catholics and Protestants can never agree on these points. The fact exists; it is irremovable, and sensible men will seek in practical plans ways out of the difficulties.⁶²

The sides were clearly drawn. From the two quotations representing O'Connor, a leading Catholic voice in the state, and Patterson, the spokesman for public education, it is quite evident that each faction saw in the other's growing strength a threat to its own religious beliefs.

Several times in editorials in that year and the next the editor of *The New Hampshire Catholic* returned to the above thesis—that Catholic children could not get the religious training which

⁶⁰ *N. H. School Reports*, 1892, 262.

⁶¹ The archbishop in question was not identified either in the lengthy quotation or in the editor's comments.

⁶² *The New Hampshire Catholic*, January 2, 1892, 1-2.

they needed in the public schools, that by going to the public schools Catholics would be pressured by the insidious influence of prejudiced Protestants. "There are persons," he said almost a year later, "who think that because a religion is never mentioned in a school, much less antagonized, all is right and safe for their children."⁶³ The cleavage of centuries was still deep; and O'Connor, as he continued, was voicing what must have been the opinion of many of his faith:

It is very well understood that to utter any positive slur on the religion of a child, would at once arouse the pride of child and parent, and make them stand up for their faith. That is not the plan of today. It is treated as a thing not to be named; if it is only referred to by omissions more significant than any attack, the work is done; the impression is conveyed that the faith is not what it should be, not respectable; it is treated so that the child will infer it is all the enemies charge.

Then the teachers A teacher's tone, manner, look, smile of sarcasm, elevation of the eyebrows . . . conveys . . . a more powerful condemnation of anything than would a whole sermon. . . . You will not be surprised at the effect of the non-Catholic teacher over the Catholic pupil, especially if that teacher is both cultured and amiable as well as prejudiced.⁶⁴

On both sides there were fear, prejudice, insecurity, and disagreement. Moreover, neither the leaders of the public schools nor the heads of the Roman Catholic Church wholly trusted the sincerity of the other side. Indeed, the superintendent of public instruction, Fred Gowing, rejoiced at the slight falling off of attendance in the parochial schools in the years immediately following 1891. In his report for 1894 he recommended a law which would have given the state much closer control over what was taught in the parochial schools. He requested that private schools be approved "only when the teaching in all the studies required by law is in the English language, and when they [school committees] are satisfied that such teaching equals in thoroughness and efficiency the teaching in the public schools . . . in the studies required by law. . . ."⁶⁵

⁶³ *Ibid.*, November 19, 1892.

⁶⁴ *Ibid.*

⁶⁵ *N. H. School Reports*, 1894, 206.

Catholic Growth, 1885-1910

As the century ended, the Roman Catholic population and the parochial schools were becoming more and more influential forces in the state. The Catholic population of 45,000 in 1884 had jumped to 85,000 a decade later. The parochial school population, which had been negligible before, had reached 8,040 in 1894. Possibly the decline to which Patterson and Gowing had referred in their reports was a temporary slackening because of the depression of 1892 and 1893 with its unemployment in Manchester and the other mill towns. During the years immediately following, the Roman Catholic population resumed its impressive growth. By 1910, according to Stackpole, there were 126,000 Catholics in the state and 99 churches to help them meet their needs. The parochial schools likewise maintained their steady increase; 13,000 children were receiving their education in church-sponsored centers in 1910.⁶⁶

Church, State, and Public Education at the Dawn of the Twentieth Century

Thus the nineteenth century gave way to the twentieth, bequeathing to it a tangle of problems perplexing enough to test the ingenuity of the keenest minds. As the twentieth century continues to face many of these same issues at mid-century, it is well to do some stock-taking as to what has taken place in New Hampshire during the two and a half centuries of its efforts to institute public-supported education for all of the children of all of the people.

Summary of 250 Years

An analysis of the evidence presented in this and the preceding chapters suggests at least the following changes and developments in state-church-public-school relations:

1. In the seventeenth century New Hampshire with its establishment of religion was a Christian commonwealth in the western European tradition. In such a society education was the handmaiden of the church. Under those circumstances the school's

⁶⁶ O'Gorman, 486; Stackpole, *History of New Hampshire*, IV, 245.

curriculum had to include whatever religious materials were needed to foster the interests of that church. The primary function was that of instructing in the doctrines and history of whatever was the established religion.

Because the ministers, almost always Congregational in creed, were often the only educated persons in the towns, it was frequently their lot to double as schoolmasters. Perhaps more important, because of their learning and eminence in the community they were set up as judges over any laymen who should be appointed as teachers in the common schools. It was no accident that the Bible and the Catechism were among the few school books available to the young of the town.

From almost the beginning the towns were expected to establish and support the common schools. Regardless of the religious leanings of an individual, he had little choice. In most towns he was expected to support both the town's ministry and its common school, both functions being closely tied together in provincial legislation from 1642 until after the Revolutionary War.

2. The American Revolution did not create any startling changes in school arrangements. The laws passed during the last quarter of the eighteenth century continued the practices established under the English government. The common school still had its strong religious core and Congregational literature dominated the school's subject matter. The new state Constitution itself, although it was not too clear as to the subject of public education, appeared to suggest in Article 6 of the Bill of Rights that piety and morality could best be obtained through the efforts of public Protestant teachers.

3. The growing Protestant sectarianism which led to the adoption of the Toleration Act in 1819, with its elimination of the town-supported ministry and tax-supported church, had a like effect on religion in the public schools. The act of 1827 was a logical sequel to the termination of the church establishment. If the state was to divest itself of responsibility for supporting the clergy, it would be just as logical to reject the use of texts and other materials calculated "to favor any particular sect or tenet." Separation of church and state would be more of an actuality when publicly supported education maintained a neutral position so far as the several sects were concerned.

4. While the public school was attempting to maintain this neutral position insofar as the several Protestant sects were concerned, it did not believe that it should be neutral toward the Christian religion itself. Since, during the first half of the nineteenth century, the state was largely Protestant, educators did not deem it amiss to demand that certain elements of Christian doctrine (it might better have been called Protestant) be taught in the schools. County commissioners, school boards, superintendents of public instruction, and others continuously called for moral and religious teaching in the state-supported schools. Particularly to be emphasized were the Ten Commandments, the Lord's Prayer, and the Beatitudes. The officials felt that these recommendations were in keeping with the admonitions of Article 6 of the Bill of Rights. Apparently, however, the teaching of these elements of Protestant Christianity was less successful all through the century than most school leaders liked, for they were endlessly bewailing the inadequacy of the religious training of the pupils. As in the previous century, Protestant clergymen were active influences in public education, often holding key policy-making positions. An effect of their leadership was this emphasis upon the teaching of religion.

5. With the appearance and rapid growth of the Roman Catholic population during the second half of the century, the church-state issue centered more and more on the public school. At the same time that the people were beginning to recognize that in a democracy political restrictions related to religion deny the very essence of that democracy, they also began to believe that the public, tax-supported school was the bulwark of the democratic tradition. Just as significant, perhaps, was the fact that for the first time in New Hampshire's history a vigorous segment of its population was non-Protestant. Mostly of European origin, it brought with it a concept of education and religion which was strikingly similar to that which had existed in New Hampshire during the seventeenth century.

The reappearance of the seventeenth century tradition in this new, closely knit minority immediately challenged the more recently developed tradition of a secular education. While the newcomers challenged the concept of separation of church and state, they demonstrated forcefully by their actions that the teaching

of religion in the common schools is fraught with many dangers. As the century ended, Protestant school leaders and the spokesmen for Roman Catholics stated, in their public utterances at least, that they had no common approach to public education.

Questions for the Twentieth Century

The change in the social and religious structure of the state forced several immediate questions before the public, questions which found no easy answers at the end of the nineteenth century, questions which find no easy answers in our own time:

1. *Can Bible teaching in the public schools be truly nonsectarian?* While the school leaders demanded a stronger emphasis on the teaching of the Bible for its moral and spiritual values, the Roman Catholic leadership maintained that such teaching was wholly sectarian in nature. No headway had been made at the end of the century.

2. *What was the place of the parochial school in the American scene?* On the one hand the Catholic priesthood called upon Catholic parents to send their children to Catholic schools, because (a) such schooling was necessary if their children were to receive proper religious instruction, and (b) the teaching in the common schools was opposed to the Catholic religion. On the other hand public educators demanded a stronger public school, because (a) the public school was the chief means of unifying the diverse elements of a growing population, and (b) the public school was the bulwark of the republic and its democratic traditions. Among the leadership no headway had been made at the end of the century.

3. *Should public funds be used for sectarian schools?* Vigorously the state commissioners and the superintendents of public instruction preached the concept of non-support for sectarian schools. By an overwhelming margin in 1877 the school men received legal support for this view when the state ratified the constitutional amendment which denied the use of tax funds to sectarian schools. Apparently undeterred as the century drew to its close, the Catholic Church proceeded with its program of attempting to educate all Catholic children. By 1900 it had provided parochial schools for approximately 10,000 pupils. As the burden of the schooling increased, the Catholic leaders began to

raise questions about what they called an unfair system of double taxation.

4. *Should the schools of the state foster religious principles?* The Catholic Church, the Protestant sects, and the public educators were all in agreement that the school should teach religious principles. But there the agreement ended. During the nineteenth century the several forces could not get together. The public educators and the Protestant ministry appeared to be in general agreement that they could teach Christian principles in the public schools. The Catholic leadership was just as sure that what was being taught in the schools was undisguised Protestantism. At the same time Catholic leaders were equally sure that the schools, under their own control, had an extremely important religious function.

5. *How can the school be neutral toward the several sects and still support basic religious principles?* Probably most of the previous questions are small parts of this major issue, the issue which the nineteenth century refused to face. The superintendents of public instruction helped to foster general Protestant religious principles partly because they did not understand what the Catholics were complaining about, partly because they were following traditional patterns. The Catholics, refusing to try to understand the reasons for the development of a tradition of separation in the New World, stated that Catholics and Protestants could not get together in establishing common religious principles to be taught in the public schools. There is no evidence, in fact, that either side tried to understand the other.

Therefore, so far as this question was concerned, even though it was real and ever present, no effort was made to resolve it. One thing is certain: the nineteenth century could not and the twentieth can not resolve this basic issue until the several religions, sects, and denominations—Protestant, Roman Catholic, Greek Orthodox, Jewish, and so on—are willing to set forth the basic principles that are common to all of these great religions and that can be taught to all of the children of all of the people. Then, and then only, can the public school teach religious principles and at the same time maintain a relative neutrality among the several sects. The nineteenth century did not try to find the common elements. This task remains for the twentieth century.

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The bibliography is organized as shown in the following outline.

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Appendix A

THE PROVINCE AND STATE OF NEW HAMPSHIRE

1. *Provincial Executives*¹

John Cutt, Portsmouth	President	1680-81
Richard Waldron, Dover	Deputy President	1681-82
Edward Cranfield, London, Eng.	Lieutenant-Governor	1682-85
Walter Barefoot, London, Eng.	Deputy Governor	1685-86
Joseph Dudley, Roxbury, Mass.	President	1686-87
Edmund Andros, London, Eng.	Governor	1687-89
Simon Bradstreet, Salem, Mass.	Governor	1689-92
John Usher, Boston, Mass.	Lieutenant-Governor	1692-97
William Partridge, Portsmouth	Lieutenant-Governor	1697-98
Samuel Allen, London, Eng.	Governor	1698-99
Earl of Bellomont, New York	Governor	1699-1701
William Partridge, Portsmouth	Lieutenant-Governor	1701-02
Joseph Dudley, Roxbury, Mass.	Governor	1702-16
Samuel Shute, Boston, Mass.	Governor	1716-23
John Wentworth, Portsmouth	Lieutenant-Governor	1723-30
Jonathan Belcher, Boston, Mass.	Governor	1730-41
Benning Wentworth, Portsmouth	Governor	1741-66
John Wentworth, Portsmouth	Governor	1767-75

2. *Religious Clauses in Instructions to Governor Benning Wentworth*

Along with the royal commission which was sent to each of the colonial governors there went a set of instructions for the proper governance of the province. The following were included in those sent to Benning Wentworth upon the accession of George III to the throne of England:

Instructions to Ur Trusty and Wellbeloved Benning Wentworth Esqr. Our Governor and Commander in Chief in and over our Province of New-Hampshire in New England in America; Given at our Court at St. James's the 30th Day of June 1761. In the First Year of Our Reign.

62. (Liberty of Conscience.)

You shall permit a Liberty of Conscience, to all Persons (except Papists) so they be contented with a quiet and peaceable Enjoyment of the same, not giving Offence or Scandall to the Government.

¹ State of New Hampshire, *Manual for the General Court*, 1949, 227.

APPENDIX

63. (Church of England Rites.)

You shall take especial Care, that God Almighty be devoutly and duly served throughout your Government, the Book of Common Prayer, as by Law established read on each Sunday and Holiday, and the Blessed Sacrament administered according to the Rites of the Church of England.

64. (Church Maintenance and Extension.)

You shall be carefull, that the Churches already built there be well and orderly kept, and that more be built, as the Province shall by God's Blessing be improved, and that besides a competent Maintenance to be Assign'd to the Minister of each Orthodox Church, a convenient House be built at the common Charge for each Minister, and a competent Proportion of Land Assigned him for a Glebe and Exercise of his Industry.

65. (No Preferment Without Certificate.)

You are not to prefer any Minister to any Ecclesiastical Benefice, in that our Province without a Certificate from the Right Revd Father in God the Lord Bishop of London of his being conformable to the Doctrine and Discipline of the Church of England, and of a good Life and Conversation, and if any Person preferred already to a Benefice, shall appear to you to give Scandall, either by his Doctrine or manners, you are to use the proper and usual means, for the Removal of Him.

66. (Ministers must be of the Vestry.)

You are to give Orders forthwith (if the same be not already done) that every Orthodox Minister within your Government, be One of the Vestry in his respective Parish, and that No Vestry be held without him, except in the Case of Sickness; or that after Notice of a Vestry summoned, he Omit to come.

69. (License of School Masters.)

We do further, direct, that no Schoolmaster be hence forth permitted to come from England, and to keep School in the said Province, without the License of the said Bishop of London, and that no other Person now there, or that shall come from other Parts shall be admitted to keep School in that Our said Province of New Hampshire without your License first obtained.²

3. *The Provincial and State Legislature: Terminology*

In 1679, when Charles II reinstated the direct control of the royal government upon the province of New Hampshire, he provided for a President and Council to "take care of ye said Tract of land called the Province of New-Hampshire, and of the Planters and Inhabitants thereof, and to order, rule and govern ye same according to such methods and regulations as are herein after provisi^ded and declared."³ Of the Council the monarch listed five of the members in the commission and ordered that the President and these five should choose three others to make up a total of eight councilmen.

To aid this executive body in making law the commission also provided that within three months after they had been sworn into their offices the

² *Laws of New Hampshire*, III, 274-75.

³ *Provincial Papers*, I, 374-75.

PROVINCE AND STATE OF NEW HAMPSHIRE

President and Council should call for the election of a General Assembly in the following manner:

To which our will and pleasure is, and we do by these prts authorize, require and comand ye said Pres. and Councell that they within 3 months after they have bin sworn (as aforesaid) they shall issue forth sumons under ye seal by us appointed to be used, ye return of writs for ye calling a Generall Assembly of the said Prov., using and observing there such rules and methods (as to the persons who are to chuse their Deputies and ye time and place of meeting) as they shall judge most convenient. At ye meeting of which Gen. Assembly we do hereby will, authorize and require ye Pres. of ye said Councell to mind them in generall, what is to be intimated in ye proclamation aforesaid.

That he recommend them ye making of such Acts, Laws, and Ordinances, as may most tend to ye establishing them in obedience to our authority; their own prservation in peace and good Governmt, and defend against their enemies and that they do consider of the fittest ways for raising of taxes, and in such proportion as may be fit for ye support of ye sd Governmt. And our will and pleasure is, and we do hereby declare, ordain, and grant, that all and every such Acts, Laws and ordinances, as shall from time to time be made in and by such general Assembly or Assemblies, shall be first approved and allowed by the Pres. and Councell for the time being . . . ⁴

This essentially was the arrangement maintained throughout the whole of the provincial period.

In 1692 the instructions to Governor Allen raised the number of councilmen to nine. Later commissions reduced this number to seven. Allen's commission provided that:

. . . the persons thereupon duly Elected by the major part of the freeholders . . . shall be called . . . the Assembly of the said Province; and that you, the said Samuel Allen, by and with the advice and consent of our Said Council and Assembly . . . have full power and authority to make, constitute and ordain Laws, Statutes and Ordinances for the public Peace . . . ⁵

Although the commission and the instructions to Allen and to his deputy, John Usher, do not use the term "House of Representatives," it enters the official records almost immediately as a synonym for "Assembly" or for "General Assembly." For example, the *Journal of Council and Assembly* contained the following: "The Assembly or House of Representatives waited upon His Excellency at four o'clock" This statement is extracted from the record of August 7, 1699.⁶

When "General Assembly" was used it ordinarily meant a session at which both the Council and Representatives were sitting, although this was not always the case. A 1696 session in passing one of its enactments stated: "Be it Enacted, by the Lieutenant Governor, Councill and Representatives convened in Generall Assembly."⁷

⁴ *Ibid.*, 378-79.

⁵ *Ibid.*, II, 58.

⁶ *Ibid.*, III, 65.

⁷ *Ibid.*, 175.

APPENDIX

As time went on, "General Assembly" as used above gradually gave way to "General Court." While it may have appeared earlier, the present writer first noticed it used in a petition to the government. In 1712 four petitioners presented their pleas in the following manner: "To His Excellency the Governour, the Honourable the Council, and Representatives in General Court Assembled."⁸ In like manner the first printed edition of laws for the province of New Hampshire carried on the title page, "Acts and Laws Passed by the General Court or Assembly of his Majesties Province of New Hampshire."⁹ This printing took place in 1716.

This terminology for the legislative branch of government lasted through the remainder of the colonial period. With the making of a new state Constitution a few changes were made, and the foregoing gave way to the language which is still used to describe the government of the state of New Hampshire:

GENERAL COURT

The supreme legislative power, within this state, shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

The senate and house shall assemble every year on the first Wednesday of June and at such other times as they may judge necessary; and shall dissolve and be dissolved, seven days next preceding the said first Wednesday of June annually, and shall be styled The General Court of New Hampshire.¹⁰

⁸ *Ibid.*, 521.

⁹ *Ibid.*, 631.

¹⁰ *N. H. Manual for the General Court*, 1949, 85.

Appendix B

ORIGINS AND EARLY DEVELOPMENT OF NEW HAMPSHIRE CHURCHES

Among the churches which have played forceful roles in the development of New Hampshire's history, as presented in this study, have been the Congregational and the Roman Catholic. These two important religious bodies have received the greatest attention because they have affected New Hampshire's tradition concerning church and state more than have any other sects. The united efforts of several other sects or denominations were instrumental in changing part of the tradition and in getting the Toleration Act passed. Some readers may wonder about the size and relative importance of some of these smaller groups.

The following commentaries attempt to give some background concerning the beginnings and subsequent development of several of these groups. Among them are the Baptists, the Methodists, the Episcopalians, and the Universalists. In addition the writer has included a few notes on the Unitarians and the Jews. In general the author has made no effort to trace the growth of any of these religious groups into the twentieth century.

1. *The Baptists*

The first Baptist church in New Hampshire was organized in Newton in January of 1750. Not until 1755 did the society become strong enough to call a pastor. In the latter year Elder Powers was ordained as the first Baptist minister in the state. This remained the only church until 1770, when the Stratham congregation was formed. Then in rapid succession churches were created in Nottingham, Brentwood, Canterbury, Chichester, Epping, Hampstead, Hawke, Loudon, Meredith, Salisbury, and South Hampton. These parishes, together with churches in Berwick and Sanford, both in Maine, formed the Brentwood Conference in 1776.¹¹

According to the historians, in 1790 there were in New Hampshire 31 Baptist churches, 23 ordained and licensed ministers, and 1,732 church members. Five years later these had increased to 41 churches, 30 preachers, and 2,362 members.¹² By 1826 there were 70 churches, 41 ministers, and 4,637 members.¹³ The corporate name of the Convention at the time of its organ-

¹¹ C. Raymond Chappell, *The Baptists in New Hampshire*, 3-4.

¹² Hurlin, Sargent, and Wakeman, *The Baptists of New Hampshire*, 13.

¹³ Chappell, 5-6.

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ization in 1826 was the Baptist Convention of the State of New Hampshire.

In addition to the above movement, another somewhat smaller Baptist sect also arose in New Hampshire. Under the leadership of Rev. Benjamin Randall this sect established its original church at New Durham, New Hampshire, and called itself the Freewill Baptists.¹⁴ By 1792 the movement had gained such strength that the leaders decided that further organization was essential. The neighboring churches joined the original congregation in establishing quarterly conferences and yearly meetings. In October of 1827 the General Conference of Freewill Baptists was set up as the central organization of the church for purposes of developing and directing the missionary program of the sect. By 1801 there were seventeen churches in the state. According to Thayer, between two and three thousand persons attended their annual meetings.¹⁵

In 1916 the two Baptist groups drew together and formed the present Baptist organization of the state.¹⁶

2. *The Jews*

The Jews play practically no part in the developments treated in this study. According to their records they had only a scattered few in the state prior to 1800. Nor did their numbers reach any sizable proportions until after the midpoint of the nineteenth century. The first group migration appeared to come from Germany; this was soon followed by larger migrations from the Russian empire.

The census of American Jews, gathered in 1878 by the Union of American Hebrew Congregations, lists New Hampshire as having a Jewish population of 150. In 1891 the largest single group in New Hampshire, the congregation of Manchester, numbered only twenty-four men. By 1909 this group appeared to have quadrupled. In 1937, at the time of the Silver Anniversary of Adath-Yeshuran Synagogue in Manchester, Brodie estimated the number of Jews in the state as 3,000 persons, two thirds of whom lived in the cities of Manchester, Nashua, and Portsmouth.¹⁷

3. *The Methodist Episcopal Church*

The Methodist Episcopal Church had its beginnings in New Hampshire with the preachings of an itinerant Virginian, Jesse Lee, who was converted in 1773 and preached his first sermon in New England in 1789. During a fourteen-month period he preached 321 sermons in New Hampshire, Massa-

¹⁴ *Ibid.*, 8.

¹⁵ Lucius Thayer, *Congregationalism in New Hampshire During the Nineteenth Century*, 6.

¹⁶ Chappell, 9.

¹⁷ I. A. Brodie, *Adath-Yeshuran Synagogue, Silver Anniversary, 1912-1937*, 83-100.

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chusetts, Connecticut, and Rhode Island. Although he probably made the greatest early impression and created the impetus for the development of the sect, other individual Methodists had preceded him in the state. The first Methodist sermon in the Granite State was offered at Chesterfield as early as 1772.¹⁸

In 1795 the first Methodist society was organized at Chesterfield with 68 members. By 1800 there were over 500 adherents to Methodism and by the next year 675.¹⁹ There were four churches in 1800, sixteen by 1810.

During the nineteenth century Methodism made such tremendous strides that it became the second largest Protestant sect in the state, second only to Congregationalism. Its period of greatest growth came between 1810 and 1840 when its membership jumped from about 1,000 to 10,000. Since that time the church has made progress much more slowly, gaining only 5,000 new adherents in the next seventy-five years. In 1915 there were approximately 130 churches, with a membership of 14,304 plus 19,811 Sunday school scholars.²⁰

4. *The Protestant Episcopal Church*

Much of the early history of the Church of England has already been sketched in this study. Until the arrival of Benning Wentworth as Governor, the Episcopalians had a difficult time. Even with his aid matters did not measurably improve, for at the outbreak of the Revolution there were only three parishes, Portsmouth, Claremont, and Holderness. Cornish followed in the early 1790's. Dunn states that the three original churches "lived in a state of suspended animation only," during the strenuous war years. The Portsmouth rector, Mather Byles, fled to Halifax, Nova Scotia, while Rev. Ranna Cossit of Claremont was confined to his parish town.²¹ The support of English officialdom weighed upon Episcopalian hopes like an anchor.

The first Episcopalian convention took place at Concord in 1802 with three clergymen and six laymen present. From these small beginnings the number had increased by 1850 to seven clergymen and thirteen laymen. By 1901 forty-eight clergymen and sixty-seven laymen were entitled to attend the convention of the Protestant Episcopal Church.

During the first half of the nineteenth century the increase in church membership was negligible. The number of communicants, 150 in 1810, had risen to 552 by 1850 and to 4,496 by 1901.²²

¹⁸ Otis Cole and Oliver S. Baketel, *History of the New Hampshire Conference of the Methodist Episcopal Church*, 22-32.

¹⁹ *Ibid.*, 32-35; Thayer, *op. cit.*, 6.

²⁰ Cole and Baketel, 384.

²¹ Robert H. Dunn, *A History of the Diocese of New Hampshire, 1802-1952*, 9ff.

²² Edward Goodridge and Daniel C. Roberts, *New Hampshire Church History*, 21-33.

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5. *American Unitarian Association*

The American Unitarian Association was organized at Boston in May of 1825. Several churches had appeared earlier in New Hampshire, but the Unitarians were not a unified force in New Hampshire. In the several histories of Unitarianism there are very few references to the sect in New Hampshire. However, as has been pointed out in this study, several cases got into the courts because of the teaching and thinking of Unitarian pastors.

This is a sect which might offer some fruitful research, for the dominant group in society often rejected the ideas of this sect. Two basic questions arose between Trinitarian and Unitarian, questions of other than a doctrinal nature: (1) Were Unitarians Christians within the meaning of the New Hampshire Constitution? and (2) Who had the right to property and to trust funds when Unitarian split away from Trinitarian or vice versa?²³

6. *The Universalists*

Universalism appeared in the United States in 1770, probably brought by John Murray, who preached his first sermon in the New World in September of that year. A Philadelphia convention adopted basic articles of faith in 1790, and thirteen years later, at Winchester, New Hampshire, the Universalists adopted their present profession of belief.²⁴

Thayer reported that the first Universalist church was organized at Portsmouth in 1780. By 1800 four others also had been formed.²⁵ Cantwell states that the progress of the Universalist cause was slow:

At the beginning of the nineteenth century our historians agree that there were only twenty five or thirty preachers of our faith in all the land, and these mainly in New England²⁶

Alone the sect was not particularly influential in New Hampshire, even though it reported thirty churches in 1900.²⁷ Yet when its strength was added to that of the Sandemanians, the Christians, the Shakers, the Quakers, and the other minority sects cited above, there was a large and influential segment of the population. Together they formed the means of wiping out town-established religion and took a long stride toward separating church and state.

²³ American Unitarian Association, *Unitarian Year Book, 1950-1951*.

²⁴ J. S. Cantwell, *et al.*, *The Winchester Centennial, 1803-1903*, 3-24.

²⁵ Thayer, *op. cit.*, 6.

²⁶ Cantwell, 6.

²⁷ Lucius H. Thayer, *The Religious Conditions of New Hampshire During the Period 1750 to 1800*, 8.

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